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ABSTRACT

This hearing transcript presents testimony exploring how the well-being of abused and neglected children can be improved through an amendment clarifying the "reasonable efforts" requirement of the Adoption Assistance and Child Welfare Act (1980) to allow the child's health and safety to take precedence over parents' rights. Testimony begins with a statement from Ohio Senator DeWine, which notes the frequency with which abused or neglected children are returned to unsafe or unhealthy home environments, and the number of children in foster care for longer than 2 years. Additional testimony in support of the change is presented from: (1) the acting assistant secretary for Children and Families, Administration for Children and Families, U.S. Department of Health and Human Services, Olivia A. Golden; (2) the director of the University of Rhode Island's Family Violence Research Program, Richard J. Gelles; (3) director of Montgomery County (Ohio) Children Services Board, Helen Leonhart-Jones; and (4) director, Los Angeles County (California) Department of Children and Family Services, Peter Digre. Additional statements, articles, and correspondence--both anecdotal and research-based, are appended from Senator Jeffords, the speakers, and the Child Welfare League of America. (HTH)

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S. HRG. 104-692

# IMPROVING THE WELL-BEING OF ABUSED AND NEGLECTED CHILDREN

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## HEARING

BEFORE THE

## COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

EXPLORING HOW THE WELL-BEING OF ABUSED AND NEGLECTED CHILDREN CAN BE IMPROVED THROUGH CLARIFYING THE REASONABLE EFFORTS REQUIREMENT OF THE ADOPTION ASSISTANCE AND CHILD WELFARE ACT TO MAKE THE CHILD'S HEALTH AND SAFETY THE PRIMARY CONCERN

NOVEMBER 20, 1996

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# IMPROVING THE WELL-BEING OF ABUSED AND NEGLECTED CHILDREN

WEDNESDAY, NOVEMBER 20, 1996

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
*Washington, DC.*

The committee met, pursuant to notice, at 10:02 a.m., in room SD–430, Dirksen Senate Office Building, Senator DeWine, presiding.

Present: Senators DeWine and Pell.

OPENING STATEMENT OF SENATOR DEWINE

Senator DEWINE [presiding]. Good morning. We welcome you to a hearing of the Senate Labor and Human Resources Committee on what I believe, along with a growing number of concerned social welfare professionals, is a major threat to the health and safety of America's youth.

Today too many children are spending their most important formative years in a legal limbo, a legal limbo that denies them their chance to be adopted, that denies them what all children should have—the chance to be loved and cared for by parents.

The job of finding parents for these children becomes infinitely more difficult the longer they are suspended in this foster care limbo. Sometimes we focus our energies on fruitless attempts to reunify certain families that simply cannot be fixed. As a result, these children lose the opportunity to find a permanent adoptive home.

We are sending too many children back to dangerous and abusive homes. We send them back to live with parents who are parents in name only, to homes that are homes in name only. We send these children back to the custody of people who have already abused and tortured these children.

We are all too familiar with the statistics that demonstrate the tragedy that befalls these children. Every day in America, three children actually die of abuse and neglect at the hands of their parents or caretakers. That is over 1,200 children every year. And almost half of these children are killed after—after—their tragic circumstances have come to the attention of child welfare agencies.

Tonight, almost 421,000 children will sleep in foster homes. Over a year's time, 659,000 will be in a foster home for at least part of that year. Shockingly, roughly 43 percent of the children in the foster care system at any one time will languish in foster care longer than 2 years. Ten percent will be in foster longer than 5 years.

And the number of these foster children is rising. From 1986 to 1990, it rose almost 50 percent. Too many of our children are not finding permanent homes. Too many of them are being hurt. Too many of them are dying.

Why is this happening? Obviously, many factors are to blame. There are many reasons. Many parents were themselves abused as children. Many of them lack good role models for parenting. And many of them do not have an extended family to rely on. Add to this the burgeoning crack epidemic, social workers who are seriously overburdened, and you have a prescription for a major disaster in child welfare.

We are trying here in Congress to deal with these issues. They are all very difficult. But there is another key factor that I would like to focus on in this hearing this morning. I am convinced that some—some—of the tragedies in the child welfare system are the unintended consequences of a small part of a law passed by the U.S. Congress.

In 1980, Congress passed the Adoption Assistance and Child Welfare Act. The Child Welfare Act has done a great deal of good. It increased the resources available to struggling families. It increased the supervision of children in the foster care system. And it gave financial support to people to encourage them to adopt children with special needs.

The authors of this 1980 Act deserve a great deal of credit for how they dealt with the problems that they faced. Their legislation has done a lot to improve the lives of America's children. But while the law has done a great deal of good, I have come to believe that the law is being frequently misinterpreted, with some truly unintended and undesirable consequences.

Under the Act, for a State to be eligible for Federal matching funds for foster care expenditures, the State must have a plan for the supervision of child welfare services, and that plan must be approved by the Secretary of HHS. The State plan must provide, and I quote: "that, in each case, reasonable efforts will be made (a) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home."

In other words, no matter what the particular circumstances of a household may be, the State must make reasonable efforts to keep that family together and to put it back together if it falls apart.

There is strong evidence to suggest that in practice, reasonable efforts have many times become extraordinary efforts—efforts to keep families together at all costs.

There are hundreds of examples I could give. Over the last several months, I have talked to people all over the State of Ohio who deal with this problem every, single day. I have asked many of them the following hypothetical question: Let us say there is a cocaine-addicted mother who has seven children. The father is an alcoholic. The seven children have been taken away permanently by the State, by the county, in Ohio. Let us assume further that the mother gives birth to an eighth child, and that child tests positive at the hospital for cocaine. The father is still an alcoholic. What would you do?

I posed this question to children's services workers in the State of Ohio. Some of them told me that they would apply for emergency temporary custody of the child, but they would still have to work to put that family back together. Others said a court would not grant them even temporary custody of the child. One county told me it would be 2 years before the child would be available for adoption. Another county, an urban county in Ohio, told me it would be 5 years before a child under those circumstances would be eligible for adoption.

The answers I got were certainly different from county to county, but one thing is clear, and this was cited time and time again by the people I spoke to in Ohio. They cited the 1980 law. I believe it is the 1980 law and how it is being interpreted—misinterpreted, I believe—by social workers, and not just by social workers, but by judges, by attorneys, and others who deal with this issue every day. I believe this misinterpretation leads to these different results.

In my view, this is certainly not what was intended by the authors of the law. Much of the national attention on the case of Elisa Izquierdo in New York has focused on the many ways the social welfare agencies dropped the ball. There have been many other publicized cases in the last year or two as well. It has been said that there were numerous points in this tragic story when some agency could have and should have intervened to remove this little girl and her siblings from her mother's custody before she was killed. I am not going to revisit that ground today. Rather, my point is a broader one: Should our Federal law really push the envelope so that extraordinary efforts are made to keep that family together—efforts that are clearly unreasonable?

I believe we need to reexamine what all of us agree on—the fact that the child ought to come first—the child ought to come first. We have to make the best interests of the child our top national priority.

What I would like to explore today is the question of how to do this. I have already proposed legislation that I think would help accomplish this goal. It would add to the relevant law—the law I previously cited—the following simple, straightforward provision, which is outlined to my right and the audience's left above: "In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern."

I truly believe that the authors of this bill understood that that was the intent. I firmly believe that that was their intent when they wrote the law. They did not think it had to be spelled out. I am convinced, after dozens and dozens of conversations with people in the field, that this is not clear and that this law is in fact being misinterpreted.

Let me read it again. This is what our bill would add: "In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern."

Here in the Labor and Human Resources Committee, we have a great deal of experience in dealing with children's issues. Our purpose here today is to explore whether or not this is a good solution to this problem. The specific law that would have to be amended with this language is, of course, the Social Security Act, which comes under the jurisdiction of the Senate Finance Committee—

and we look forward to working with the Finance Committee on this bill.

For this hearing, we have invited some experts who have real world, hands-on experience with the problems of these at-risk young people. Our first panelist is Olivia Golden, the acting Assistant Secretary of HHS for Children and Families. She formerly served as director of programs and policies at the Children's Defense Fund and wrote the book, "Poor Children and Welfare Reform."

Ms. Golden, thank you very much for joining us. Please begin your testimony.

**STATEMENT OF OLIVIA A. GOLDEN, ACTING ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES, ADMINISTRATION FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC**

Ms. GOLDEN. Thank you, Senator DeWine, for the opportunity to testify. I am very pleased to appear before you today to discuss the very important issue of assuring the safety and well-being of children who have been abused or neglected. Perhaps no issue is more important to the future of our country than assuring that children—all children—grow up in families where they are safe, healthy, nurtured and loved.

I want to commend you, Senator, for holding today's hearing and for the commitment and determination with which you have pursued the safety of our children. This administration, in consultation with State and community leaders, has taken numerous steps to strengthen child welfare systems over the past several years. Much remains to be accomplished, however. We hope to work with you and your colleagues in the 105th Congress to take further steps to better protect the safety of our Nation's vulnerable children and to ensure that every decision made is in the child's best interest and that the focus of child welfare services is on securing a safe and permanent home environment for the child.

Child abuse and neglect is a tragedy of growing proportions, as you, Senator, highlighted in your opening statement. The States report that in 1994, over one million children were victims of neglect or abuse, an increase of 27 percent over the number of children who were found to be victims in 1990. In recent years, the number of children in foster care has increased to more than 450,000 children. And, although approximately 20,000 children are adopted from foster care each year, the number has failed to keep pace with the growing need.

While there is no one single effective response to child abuse and neglect, ensuring the subsequent safety of these children must be our priority. To do so requires a continuum of effective services, including community-based prevention and family resource programs that help resolve problems before children are abused or neglected; foster care services that provide a temporary safe home for children as well as services to their families while parents work to resolve crises in their lives; adoption and guardianship opportunities for children for whom reunification is not possible; and family preservation services for families that have problems but that can be

safely strengthened and kept together or reunified through the provision of services.

It must be emphasized that while a continuum of services is needed to meet the varying needs of children and families, not every family can be preserved. In our implementation of the Family Preservation and Family Support Program, for which final regulations have just been issued, we have emphasized that these services are clearly not appropriate when children cannot be safe in their own homes.

There is a growing consensus that to reform the child welfare system, we need to first promote community-based prevention and early intervention efforts; second, increase the focus on permanence and on timely decisionmaking; and third, ensure real accountability by focusing on the goals of safety, permanence and well-being.

First, community-based prevention. The Clinton administration has made significant progress in developing community-based networks of support for families. In our implementation of the Family Preservation and Family Support Program, for example, we have encouraged States to bring to the table community leaders, professionals from the many different agencies that support families, and families themselves, in order to develop services that prevent child abuse, strengthen families and prevent family crisis.

Second, permanence and timely decisionmaking. As you have noted, Senator, the courts, working in conjunction with State child welfare agencies, play a critical role in decisionmaking for abused and neglected children. Through the State Court Improvement Program authorized by the Congress along with the Family Preservation and Family Support Program, we are working with State courts, State agencies and others to assess existing laws, policies and practices and identify areas in need of reform. The goal is to improve the quality and the timeliness of decisions regarding the placement of children, termination of parental rights and other decisions that greatly affect children's safety and permanence.

In addition, the recent reauthorization of the Child Abuse Prevention and Treatment Act focuses on children's safety and permanence and adds new provisions focused on permanence and timely decisionmaking.

States must certify that they do not require the reunification of surviving children with a parent who has been convicted of a felony assault on a child or the murder or voluntary manslaughter of another child, and they must certify that they have laws making a conviction for any of those crimes grounds for terminating parental rights.

The CAPTA reauthorization bill also requires that States provide for expedited termination of parental rights for abandoned infants. We thank this committee for its leadership in sponsoring the reauthorization of CAPTA, and we will be working with the States to implement these provisions expeditiously.

Another area in which we in the administration have been working to ensure permanence is adoption. The administration is committed to continuing a wide range of efforts to promote the timely adoption of children waiting for permanent homes. As you know, the President signed into law the Small Business Job Protection Act of 1996, which provides a tax credit to families adopting chil-

dren as well as the Family and Medical Leave Act, which allows parents to take time off upon the adoption of a child.

Third, a focus on safety, permanence and well-being. Underlying all of our work in child welfare is a significant focus on the results of child welfare services. It is critical that attention be focused on what really happens to children, not just on whether public agencies adhered to procedure and completed paperwork. Through our innovative monitoring strategy, we are working with States to improve their performance in keeping children safe, securing permanent families and promoting children's development.

There is much work to be done to improve the well-being of children. By continuing to work together, I believe that we can build on the important work we have begun and move forward to ensure the well-being of America's most vulnerable children.

Thank you.

[The prepared statement of Ms. Golden may be found in the appendix.]

Senator DEWINE. Secretary Golden, thank you very much for your testimony. I think you have outlined very well the concerns that I have heard expressed as I have traveled Ohio and talked to people who are directly involved in this—not only children's services directors, but people who have to go out and make the home visits and make the reports and deal with the courts and make those sometimes very, very tough calls.

You have outlined some things that I appreciate and I think do need repeating. You mentioned your agreement, of course, with the fact that the child's best interests should always be—and I don't know if you used the word "paramount" but that was how I interpreted, anyway——

Ms. GOLDEN. Yes.

Senator DEWINE. Is that correct? Is that the terminology?

Ms. GOLDEN. Yes. In fact, as I said in the testimony, we have just issued regulations on family preservation and support, and we have highlighted in those that the child's safety and the safety of all family members must be paramount and that States need to tell us how they will accomplish that in their plans. So I think we share your commitment to that goal.

Senator DEWINE. Family preservation is a very laudable goal, and I have consistently stated this, and you, of course, mentioned that and mentioned the need to always try to improve. One of the purposes of the 1980 Act was to try to improve those services, and it is really a continuum of services where you access all the social service agencies that are available in the community, whatever the particular family needs. Now, that is easier said than done, but it certainly is something that I think we can all agree on.

I think we also agree, though, as you stated, that not every family can be saved.

Ms. GOLDEN. That is right.

Senator DEWINE. And really, I think our purpose at the Federal level when we write legislation or when we review, as we are doing now, and look at how this legislation really works in the real world, is to set some basic parameters or some basic goals that we as a nation agree on—the best interest of the child, family preservation—but to allow enough flexibility so that people who are making

those literally life and death decisions many times can make them based on the facts.

One of the concerns that I have heard expressed a number of times is the feeling, correctly or incorrectly, that the law as written does not really allow for past history to be taken into consideration. I think we could all agree in the sterile atmosphere of this hearing room this morning that that should not be, that we should always be able to take into account past history. But that is a recurring theme that I have heard time and time again. Could you comment on that?

Ms. GOLDEN. Yes. When I travel and talk to workers and to people in the community, I hear several things. I hear that. I also hear that there is often, I think, no clear sense of direction or goals. And I think at the Federal level, the part of that that we have to take responsibility for is that in the past, much of our monitoring and our work with States was around paperwork, so that all we were communicating when we went to visit was to have the forms filled out, and it felt to people as though there was no clear sense of direction in terms of goals, either about a child's safety, a child's need for a permanent home, or a child's and family's well-being.

We have changed that. We now go out to States, and we sit down with them, and we talk about and work together to assess their success at keeping children safe and moving children into permanent homes. I think what happens then is that that requires States to reflect on their own laws and procedures and on the systems and to think about how to support good decisionmaking, because I think that what you have highlighted is the frustration of line workers who are in enormously difficult positions and feel as though the system around them is getting in the way of their making good decisions instead of supporting them.

Senator DEWINE. I think that is an excellent summary. That is the impression that I get, that these decisions are tough enough as you find them, and they are not always going to be the right decisions, but I think our obligation is not to in any way impede the proper decisionmaking that is taking place out there.

We could have an interesting academic debate about what the interpretation should be of the 1980 law; I think the problem is that there are just too many people out there who do in fact in good faith read it differently and do read something into it that I don't think the authors of the bill ever intended at all.

Are you surprised by my statement about the hypothetical that I gave and the answers that I received in regard to how long it would take for a child to be even eligible for adoption? It ranged in the people whom I talked to—and I did not talk to everybody in Ohio, obviously—but among the people that I spoke to, it ranged from 2 years to 5 years. And this was under circumstances, the hypothetical which I gave, which is basically that seven other children had been taken away from these same parents—and I created a pretty tough situation in my hypothetical—but seven had been taken away permanently, and the eighth child is born and tests positive at the hospital for crack cocaine. I asked them also to assume the fact that the father was an alcoholic and is still an alcoholic—he is not a recovering alcoholic, but an alcoholic.

And the answer I got was that, yes, we can probably take the child from the hospital on a temporary basis, so we assume this child is going to be safe, but then we have to go through this elaborate process. I had some social workers, case workers, say, Look, I understand what you are saying about the law, but that is not how my judge interprets it. I do not care what you say, Senator. You are not the judge. I have to deal with Judge So-and-So, and he or she interprets the law to say that unless I can demonstrate reasonable efforts to reunify the family, then I should not really be in court, and if I start to go to court prematurely, before I have gone through that process. So that, Senator, as a practical matter, this means in our court we are not going to hear this case until, at the earliest, 2 years.

So that is all nice, but the end result is—and maybe it is nice for the lawyers—but the end result is we have this poor child out there who is now 2 years of age and who could have been perhaps adopted much, much earlier; or, in a worst case scenario, you may have a child who is 5 or 6 years of age who has not been adopted. And those of us who have children of our own, or anyone who has studied the whole situation, understands that a child's personality is a long way to being formed by the time he or she is 5 or 6 years old, and it is just not fair.

Ms. GOLDEN. I agree. You asked me if I was surprised, and I think I am saddened, perhaps, more than surprised. As we have been looking at the barriers that lie in the way of children reaching adoption or guardianship or permanent placement, I think we have found that decisionmaking that is not timely is a major barrier, and there are lots of reasons, and you have highlighted some of them.

Senator DEWINE. There are a lot of reasons, yes.

Ms. GOLDEN. There are lots of reasons, but it is of enormous urgency, and I want to underline the administration's commitment on this issue. The President has a personal commitment to the issue of adoption, and we have done a variety of things which I would be happy to talk to you about now or at another time, but we are also very eager to explore next steps because I share your view that timely decisionmaking so that children can move to a permanent loving home is an enormously important thing to be doing.

Senator DEWINE. Well, I appreciate your testimony very much, and I know you have to leave after your testimony. We appreciate your time this morning. I just want to say that I look forward to working with you on this relatively and fairly narrow issue that I have outlined here this morning, but I also look forward to working with you in regard to the much broader issue involving foster care and the welfare of our children and all the different issues that you have very eloquently discussed this morning. So we appreciate your testimony and thank you very much.

Ms. GOLDEN. Thank you very much, Senator.

Senator DEWINE. Now joining us is a prominent author and researcher in the field of child welfare, Dr. Richard Gelles. Dr. Gelles is director of the Family Violence Research Program at the University of Rhode Island and the author of a very highly regarded work and, I would also say, a very influential book judging by the book reviews, "The Book of David."

Doctor, thank you very much for joining us.

**STATEMENT OF RICHARD J. GELLES, DIRECTOR, FAMILY VIOLENCE RESEARCH PROGRAM, UNIVERSITY OF RHODE ISLAND, KINGSTON, RI**

Mr. GELLES. Thank you, Senator DeWine.

I am honored by the opportunity to appear before you today as you consider how the Federal Government can act to improve the well-being of abused and neglected children.

The writer Norman McLean said that "It may not be a fixed rule, but it is certainly a convention of public tragedy that it must repeat itself if it is to make a cry loud enough for something good to come of it."

With regard to the problem of child maltreatment in the United States, there are regular and repeated public tragedies and loud cries. Unfortunately, with only a few exceptions, little good has come from these terrible public tragedies.

I think it is fair to say that most people who know about the child welfare and child protective system in this country know that this system is in crisis. The crisis is more than simply a failure of one part of the system. As the U.S. Advisory Board on Child Abuse and Neglect said 6 years ago, this is not a failure of a single element of the system, but a chronic and critical multiple organ failure.

The failure is not the result of an enormous increase in the number of reported cases of child maltreatment, as reported by the Secretary of the Department of Health and Human Services in September. That is an increase in reports, and I think there are many researchers who do not necessarily see that number as a reflection of a real increase in child abuse and neglect. This is not a crisis caused solely by too few child protective workers responding to an increased number of reports. This is not a failure caused solely by having too few resources available to public and private child welfare agencies.

The crisis is a failure of inappropriate goals as well as a well-intended but improperly implemented Federal law, as you pointed out, the Adoption Assistance and Child Welfare Act of 1980.

The current crisis of the child welfare and child protective system and our inability to get vulnerable children out of harm's way is the result of five major factors. The first is the overselling of "intensive family preservation services" as a cost-effective and safe means of protecting children.

I have served for the past 2 years on the National Research Council's Panel on Assessing Family Violence Interventions. We have carefully examined the entire literature that evaluates the effectiveness of intensive family preservation services. We have carefully examined the results of studies that meet the normal standards of scientific evidence in this field. Although there were a number of people on our panel who believed that intensive family preservation services could preserve families and protect children at the same time, we have yet to find scientific research that could support such a claim. While intensive family preservation services might be effective for some families under certain conditions, the case cannot be made for its overall effectiveness.

Our inability to find evidence for the effectiveness of intensive family preservation services would not be so problematic if foundations, agency directors, child advocacy groups, and even some administrators in the Department of Health and Human Services were not effusively touting the successes of intensive family preservation services.

Second is the Adoption Assistance and Child Welfare Act of 1980 that mandates States to make "reasonable efforts" to keep children with their biological parents. This law and this phrase were well-intended and were designed to solve the problem of children inappropriately languishing in foster care. The law, however, as you have pointed out, never clearly defined the terms "reasonable" nor "efforts."

We have 16 years' experience with this law, and as you said this morning, it is quite clear that child protective workers often misunderstand and misapply the law. I too have heard caseworkers, lawyers and judges State very clearly that they believe their mandate is to make every possible effort to keep children with their biological caretakers.

Third is the belief that children always do best when raised by their biological caretakers. Just last week I read a quote from an administrator from the Missouri Department of Social Services who cited research that said children do best when left with their biological caretakers. Indeed, this is true, so long as their caretakers do not abuse and maltreat them. But children who are abused and neglected do not do best when they are left with or reunited with caretakers who maltreat them. In fact, compared with children left with caretakers who maltreat them, children placed into foster care, children who are adopted and even children raised in orphanages generally do better.

Fourth is the belief in the fiction that one can actually balance family preservation and child safety. Such a balancing act almost inevitably ends up tilting in the favor of parents and places many children at risk. As you said this morning, Senator DeWine, there are more than 1,200 children killed by their parents or caretakers each year in the United States, and nearly half of these children are killed after they or their parents have come to the attention of child welfare agencies. Tens of thousands, if not hundreds of thousands, of children are reabused each year after they or their parents have been identified by child welfare agencies.

Fifth and certainly by no means the least important is the belief that it is easy to change parents who maltreat their children. Child protective agencies often confuse compliance with change and fail to recognize the process by which people change. Just because someone is reported for abuse and is threatened with the loss of their children does not mean they will change their behavior. Just because someone is provided with State of the art interventions and services does not necessarily mean they will change their behavior.

Congress has the means and the opportunity to make some good come from the public tragedies of Elisa Izquierdo in New York City, Baby Emily in Connecticut, Joseph Wallace in Chicago, Christine Lambert and Natalie Aulton in Baltimore, a 15-month-old boy

whom I call "David Edwards" in my book, "The Book of David," and hundreds more children each year.

The time has come and is past due to revisit the Adoption Assistance and Child Welfare Act of 1980 and to spell out what is "reasonable" and what are "efforts." The time has come to legislate time limits for reunification efforts and to recognize that some individuals are so dangerous that they should not be given a second chance to harm their children. The two words, "reasonable efforts," must be defined or changed so that children and their welfare and development come first.

Congress can also and should also work with the administration to develop a program of research and demonstration that examines what interventions work for which families under what conditions. If any good is to come from public tragedies, it cannot come if we guide our social policy and our child welfare system with homilies, canards and overmarketed "one-size-fits-all" solutions.

I have brought with me a copy of a larger paper for staff that provides a more detailed and complete analysis of child reunification as a social policy.

Thank you for the opportunity to appear before you.

[The prepared statement of Mr. Gelles may be found in the appendix.]

Senator DEWINE. Thank you, Doctor. What did you say you brought with you? I'm sorry.

Mr. GELLES. It's a longer version of my testimony.

Senator DEWINE. Good. Thank you very much.

Could you tell us briefly, for those who have not read your book, the story of the young man you called "David"?

Mr. GELLES. David was a 15-month-old little boy who was smothered, suffocated, by his mother on one October morning. He himself had been the subject of two or three reports to the child welfare system in his State, but what was of greater concern to me as I did the review of his death was that his older sister had had her skull fractured, her ribs broken, her arms broken and her legs broken by the same mother when she was 6 weeks of age. And in that case, after many, many months of attempting to reunify, the mother actually gave up the parental rights to the older sister as she held David, who was then 1 week old, in her arms.

What concerned me as that story unfolded was that the case was closed, and the termination on the older daughter took place, and mom was allowed to take home this one-week-old baby without any further follow-up. And that clearly was a preventable death had we applied the most basic form of risk assessment in the child welfare system, and that is that parents generally behave tomorrow based on how they behaved yesterday.

And this was not a case that fell between little cracks. This was a case that fell between cracks large enough to serve as the Grand Canyon, and he should not have died; he should be 7 years old and in school today. We had him in our hands; we had the will, we had the ability. And the workers when we interviewed them said we could not have gotten a court to act on this because we had to make reasonable efforts to reunify David with his mother.

Senator DEWINE. They told you that?

Mr. GELLER. Everyone, from the top administrator in the department down the line said, "This is what our mandate is."

Senator DEWINE. "This is what our mandate is."

Mr. GELLER. "This is what our mandate is." Ironically, there was a court precedent in their State that would have allowed them to bypass it. So, while I get a great deal of comfort out of knowing that this administration is moving ahead with making child safety a priority, the system only works to the best of the vision of its weakest link, and the workers are frequently unaware and are not going to have time to hear about this hearing. They are carrying 20 or 30 cases. They have a framework that says "every possible effort," and they do not know about the debate that goes on inside the beltway.

Senator DEWINE. I think that is a very, very excellent point, and that has been my experience. My involvement in this whole field, as I think I have told you, started when I was a 25-year-old assistant county prosecutor, and I walked in the first day of work and was handed a children's services "case" and told to go to the basement of the courthouse and get involved in that. A lot of things have changed since then; a lot of things have changed in over 25 years, but unfortunately, a lot of things have not changed.

My experience in talking with professionals who do this every day, who are often, as you said, overworked and overburdened, is that they are not following every debate in the United States Congress. What they know is basically what has been accepted or what has been explained to them, and that is that they have to make reasonable efforts to unify the family, and they feel that they have that mandate, and they have to go through, and you have to be able to check off the box. Before you go back into court, you had better be able to say, "I have done this," and if you cannot do that, as they have told me, "Senator, I do not care what you say; my judge says I cannot come back into court, or he is going to throw me out. I have got to do all of these things."

So I think there is a real disconnect between what was intended in the 1980 law and the way it has been interpreted, and I do not know if that is anybody's fault; that is just the way the world is today.

Mr. GELLER. I think, ironically, that the 96th Congress was not prescriptive enough when it told the States what to do with regard to child welfare and that, combined with a real deep belief by a lot of us, myself included, that family preservation was the way to go, really was the best thing to do. We did not see the devil in a lot of the cases.

Now, we have come full circle to the new Congress, the 105th Congress, which may well have to be more prescriptive in a time when we talk about devolution and block grants, this time I think to solve the problem and to make it very clear to undertrained and overworked 28-year-old art history majors—my son now tells me he is going to be an art history major, and I worry that I have sent him down the wrong track—but those kids need to have a very clear prescription for what they are going to do because at 12 o'clock at night, in a rat-infested apartment with people screaming and yelling, in a dangerous neighborhood, they need a very clear prescription as to what their task is going to be, and not a vague

one, and not even a well-intended vague one. They need a well-intended, clear prescription as to what the prime objective——

Senator DEWINE. And the prime objective should be what?

Mr. GELLES. Child safety. When in doubt, you are going to have to lean toward the vulnerability and protection of the child. And I think anyone who has spent time out in the world knows that when in doubt, unless there has been a very recent tragedy in their own city, they lean toward preservation.

Senator DEWINE. I want to talk about something that you mentioned a moment ago and something that I continue to hear time and time again in Ohio when I talk to professionals, and that is a frustration that they did not believe that they really could look at the past as a predictor of the future.

On page 74 of your book, you State the following: "Through three decades of research on child abuse and neglect, through the many more decades of research on violent and aggressive human behavior, and through all the accumulated social scientific research on human behavior, one factor stands out as the best possible predictor of future behavior—past behavior."

The case of David is a prime example of not looking at that, and I assume that they never felt, in a sense, that that "case" was in front of them—they never opened the case on David for a while, I suppose, or at least they did not initially when the sister was taken away.

Mr. GELLES. They should have opened the case on David the day he was born. They did not do that.

Senator DEWINE. And again, why?

Mr. GELLES. Because this was a mother and a father who had nearly killed their 6-week-old daughter and, over the entire course of work with the department, had shown no evidence of changing their behavior. They were no more attuned to their daughter and no better as parents 2 years into the intervention than they were on day one. They had complied; they had come to everything, but they had not changed.

The event where David's sister was literally thrown back into the hands of the welfare worker in a parking lot and the parents sped off with David in the car should have been a warning sign to open up the case, and it was not.

Senator DEWINE. What was that situation?

Mr. GELLES. That was the day mom decided she could not win this battle with the department, so she said, "I give up. Take her. I am going to take my son home with me. You take my daughter. I am giving up my rights to her," and she did this in the parking lot of a counseling agency, leaving the worker standing in the parking lot with a 2-year-old in her arms and David in a carseat, speeding off into the distance.

As many times as I have gone over that testimony and talked to that worker, it still stuns me that the first act was not to go inside and file a report to open a case on David, to send someone out to the house and see—mom was clearly agitated. She had done something which not an awful lot of mothers do—give up her baby. I would have feared for David or just been compassionate about her and opened up the case that day, but it was not done.



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Senator DEWINE. Is the case of David, though, is that unique or that unusual in the sense of not using the past as the predictor?

Mr. GELLES. I chose that case because it did not get a lot of publicity and because it seemed pretty typical of how we go about our business in the child welfare field.

Senator DEWINE. You made a statement in your written testimony that you just gave a few minutes ago that many times, we confuse compliance with change. Could you talk about that? I believe you were talking about family reunification and the requirements that may be set down for parents to get their children back or get their child back.

Mr. GELLES. In the course of making reasonable efforts, caseworkers and department attorneys and judges have to determine when it is safe, when it is appropriate to reunify a child with his or her caretakers or when it is appropriate to suspend reunification efforts and seek a termination. In many instances, the children are not at home while this is taking place—David's older sister was in a foster home the whole time—so the judgements are made on, well, when do we think mom and dad are appropriate and safe. And as many child protective workers know, you have to make a pretty hard decision on some pretty soft data. Short of going home and living with mom and dad, you really do not know whether they have changed. And we have not yet provided the child welfare system with an appropriate measure of risk and change. Absent that, workers say, "Well, they have come to all of their counseling appointments. They have shown up, so that must mean they are making progress, they are ready to reunified."

I know from my experience working with men who batter their wives that many, many, many men show up at treatment programs and sit in the back of the room with their arms and legs crossed and their chairs tilted against the back wall for the full 26 weeks and then go back and batter their wives.

It is not limited to child abuse. It happens in all kinds of health behaviors where it is difficult to get people to move toward healthier behavior, but it is not difficult to get them to comply with doing something they are told to do—but that does not necessarily mean that they are safe and appropriate, and our workers desperately need to build that into the way they go about doing their business. It is not whether mom and dad have shown up; it is whether they really are engaged and have changed such that they are capable of raising their kids now.

Senator DEWINE. I think that is a very good point. In the real world—jump in and correct me if you disagree—it would seem that it would come up this way, that you have a case; the child has been taken away from the parents, and the children's services agency has to come up with a plan of reunification. That plan may require five different things to be done by that father or by that mother or by both. One of them may be to attend AA meetings. One of them may be to attend parenting classes. And we can dream up the next three or four, whatever the particular problem is.

It is very conceivable that all four of five of those could be complied with, and you could check those off, and then, what situation is the caseworker in at that point when he or she goes back into

court, and the attorney for the father says, "Look, you told us to do five things, and we did five things."

So it is understandable, I guess, that once you say those are the five things you have to do, and you do those five things, it puts the caseworker or children's services in a very tough situation with a judge who looks down and says, "You gave them five things to do, and they did it."

But your point, at least to me, seems to be that, yes, but we are missing the final ingredient, and that is some judgment call based on past history as to whether or not this child is safe.

Mr. GELLES. And that is the slippery slope of time limits. The down side of time limits that I am actually calling for is that it puts pressure on caseworkers to make a decision before they feel they have an awful lot of data. But if you are going to free children for adoption and have them really adopted, you must follow the time limits, and if the time limits are to be used appropriately, workers have got to understand that what they are looking for is risk and change, not simply the passage of time and compliance.

Senator DEWINE. Thank you very much.

Senator Pell?

Senator PELL. I have no questions, but I am happy to welcome Mr. Gelles from Rhode Island.

Mr. GELLES. Senator, I am very honored that you came today; thank you very much.

Senator PELL. I look forward to reading your testimony and thank you for being with us.

Senator DEWINE. Thank you, Senator Pell.

Doctor, let me conclude with just a couple of additional questions. I want to make sure that the record is clear in regard to David. Is David a composite, or how would you describe David? Is he a real child who is now dead?

Mr. GELLES. David is a real child who is now dead. The vast majority—in excess of 90 percent—of the information in that case is about a real boy and a real family and real workers, but for legal reasons and pure compassion for all those involved, there were enough changes made so that no one could pinpoint who his sister is, if in fact it was a sister, where his father is, and who the specific clinicians were who worked on the case. I felt that that would be unfair.

Senator DEWINE. Doctor, will you be able to stay with us for our next panel, because we may want to bring everybody back into one group panel when we get done, if we have additional questions.

Mr. GELLES. Yes.

Senator DEWINE. Thank you.

Let me now turn to our third panel, and I will ask the members of that panel to come forward as I am introducing them.

Marcie Fullbright, a casework supervisor at Montgomery County Children Services in Dayton, OH, was scheduled to join us at this point to help us understand what the phrase, "reasonable efforts," has come to mean in real life terms. Unfortunately, she cannot be with us, and I will at this point, without objection, insert her testimony in the record.

[The prepared statement of Ms. Fullbright may be found in the appendix.]

Senator DEWINE. Helen Jones is executive director of the Montgomery County Children Services Board in Montgomery County, OH. She is also the president of a major national organization representing advocates for children who enter the court system. The legal term for these advocates is "guardian ad litem," and the organization is called the National Court-Appointed Special Advocate Association, or National CASA Association.

We welcome you, Ms. Jones.

Our next panelist has a very moving story to share with us today, a deeply troubling story about the devastating real life consequences of children trapped in an overburdened social welfare system. Sharon Aulton is a grandmother from Annapolis, MD, and we are very grateful to her for coming forward to help us here today.

Ms. Aulton, thank you very much for joining us. We appreciate it very, very much.

Peter Digre is director of the Department of Children and Family Services in Los Angeles County, CA. There are approximately 73,000 children under the protection of Los Angeles County. He is a forceful and intelligent advocate for the needs of these children, and we are very glad he could join us today.

Let us start off with Director Jones.

**STATEMENTS OF HELEN LEONHART-JONES, EXECUTIVE DIRECTOR, MONTGOMERY COUNTY CHILDREN SERVICES BOARD, DAYTON, OH; SHARON AULTON, ANNAPOLIS, MD; AND PETER DIGRE, DIRECTOR, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, LOS ANGELES COUNTY, LOS ANGELES, CA**

Ms. JONES. Thank you, Senator DeWine. I have been fighting a cold for the last few days, and all morning my voice has been perfectly clear. I think there is something significant in the last 5 minutes now; my cough and my hoarseness have come back.

I am really grateful to you for inviting me to join you this morning and to have the chance to address you on the issue of improving the well-being of children, especially abused and neglected children.

As you stated, I am Helen Jones, and I am the executive director of Montgomery County Children Services, which is the public child protection agency in the Dayton, OH area—and I am deliberately using the words "child protection" as opposed to "child welfare."

There are 142,000 children in my county, and over the past year since I have come on board in the executive director's position, I honestly feel that in some way, I have almost touched all of them at some point.

Last year, Montgomery County Children Services received more than 28,000 referrals of abuse, neglect and dependency. We assisted 7,286 families and 17,664 children in crisis. More than 1,000 children in the protective custody of Montgomery County Children Services were in foster care in 1995, and as I sit here with you today, I am personally responsible for 1,051 children in substitute care, 62 of whom are waiting for adoptive families.

I would ask you and the committee to take just a few moments to imagine what it must feel like to be escorted from the only home you know, clutching in most cases a green garbage bag which contains the only meager belongings that you have had time to collect before being ushered into a waiting car and driven to a stranger's home. Imagine still how much more devastating that must be if indeed that has been a series of scenes for you as a child over the course of your short lifetime.

I ask you to visualize this because this scenario is a reality for hundreds of thousands of American children on any given day.

Certainly, I do not want to suggest to you that children should remain in homes where they cannot be protected or depend upon their parent or caregiver to protect them. But we must recognize that the decision to remove a child from his or her home of origin is always a decision to further "damage" that child in some way. Consequently, it must be done planfully and sensitively, with the utmost concern for the child's sense of time, urgency and need.

You also mentioned that I am president of the Board of the National Court-Appointed Special Advocate Association, also known as CASA. We train community volunteers to go into court and serve as guardians ad litem for abused and neglected children. Our advocacy is focused on the best interests of the child, separate and apart from all the other parties to the case. Indeed, we sometimes find ourselves at odds, and I have often had the question posed to me how I can be the executive director of a child welfare agency and still serve in this role as guardian ad litem for children, but I would say that you that it is a perfect marriage because of the balancing that occurs there.

While we find ourselves at odds with our parties, our emphasis never deters from the utmost concern for the child and, as I noted above, his or her sense of urgency or their sense of time.

I found some recent statistics to be of interest. In its September 30, 1996 issue, U.S. News and World Report shared some statistics based upon data from Health and Human Services that talked about the numbers of children who are "suffering amid the breakdown of families and the abuse of drugs and alcohol." They showed that children of single families have a 77 percent greater risk of being harmed by physical abuse and an 80 percent greater risk of suffering serious injuries than kids who are living with two parents. It went on to say that birth parents account for 72 percent of the physical abuse and 81 percent of the emotional abuse.

I would say to you that we live in a country where more than 3 million children a year are being abused and neglected by the very people who should be ensuring their safety. These children are then being subjected to a lifetime of misery as a result of this maltreatment.

I went to law school, and in 1987 I left my job in the private sector in a corporate counsel office to go to work for Montgomery County Children Services to implement its CASA program. One of the first cases in which I became involved was the case of three little boys who were temporarily removed from the custody of their substance-abusing mother. They were placed in two different foster homes; the two younger boys were together in one foster home, and the judge granted visitation rights to their mother, who showed up

sporadically at best. She was able to rehabilitate just enough to be able to have the court grant that the boys be returned to her, only to "fall off the wagon" and lose them again 6 months later.

This cycle was repeated continually for 8 years, until last December, when I came on board in the job as director of children services, and one of my first official acts was to sign off on the adoption approval for these boys—8 years in the system—8 years from start to finish.

The oldest boy was 5 when he came into care, and I remember him as a cute little 5-year-old. He was 13 when I assigned the adoption papers.

Every day now, of course, I keep my fingers crossed, hoping that this adoption "takes," if you will, and that it does not end up disrupting and forcing those three boys back into the system.

The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, requires that "reasonable efforts" be made to prevent the unnecessarily removal of children from their families. If a child's safety is jeopardized, and he must be removed from his family, efforts must be made to secure permanence for the child, either through reunification with his own family or by finding him another home which is safe, nurturing and permanent. And as you have already discussed this morning, the language is there, but it is vague language, and it gets carried out in jurisdictions depending upon the interpretation of the professionals within that jurisdiction.

Too often, children fall victim to foster care drift, while the professionals who are responsible for ensuring their care vacillate between returning them to marginal homes and terminating parental rights to free them for adoption. Often, by the time they are freed for adoption, they are no longer viewed as "adoptable." By that, I mean that they have become hardened to the system and somewhat wisened by it.

Ohio, like many other States including Florida, Iowa and many others, recently changed its legislation to make it less bureaucratic to ensure the safety of children. The overriding concern which drove the legislative changes is that safety is the most important consideration for children at the risk of abuse and neglect. With that in mind, Ohio has shortened the time frames in which to terminate parental rights and encourages agencies to study foster homes for the purposes of allowing them to adopt the children in their care more quickly.

This is not to suggest that Ohio's law should become the new Federal standard. In fact, while many States have made changes, none has really covered every aspect. However, the basic premise of ensuring child safety and stability should not be lost, and the efforts to guarantee certain safeties should be replicated throughout the country.

In "Backlash Against Family Preservation," Kathy Bonk notes: "Mandatory reporting laws, particularly by schools and hospitals, have resulted in important partnerships in many States working to identify the most serious cases. If, as a society, we want to help abused and neglected children, then private citizens and the public sector, not just government agencies, must be engaged to help identify and stop severe cases, but not lose children in the process.

Good quality and timely investigations of abuse is the first and maybe the most important action that a child protection agency can take to ensure that children are safe and protected while helping families. And we can all agree that more and better training is needed to better detect abuse, to keep children safe and to help stabilize families."

Clearly, to improve the overall well-being of abused and neglected children, there must be a greater emphasis on child safety. Legislative changes which emphasize resources to supervise and train staff are critical. There will be times when it is unquestionably in the child's best interest to provide the family with the requisite skills training and support services—and that does not necessarily mean dollars, although there are sometimes when it might—to keep that child in the home or to return that child after a very short period of time.

Conversely, when we recognize early on that reunification is not an option, legislation should not bind our ability to make an early decision which is consistent with that child's sense of time.

What would be most helpful from the legislature in making efforts to protect children would be clearer direction in terms of the definitions and the concepts in legislation, more diversity in resources and incentives.

The bottom line is and always should be keeping the issue of protecting children first and foremost in our advocacy efforts and ensuring their safety at all times.

I will close by telling you what drives me to do this work. Six-year-old Michael was the reason that I made the decision to go to law school. Michael was a little boy with whom I worked in a social skills development program in Cincinnati, OH. He lived in the Over-the-Rhine neighborhood, which was at one time one of the poorest and worst sections of the community; now, with gentrification, it is a desired area because it is so close to downtown.

Michael's school was one of the schools where the school district used to send disinterested teachers to live out their time until retirement. Many of the children came to school hungry, unkempt and in search of any type of adult nurturing, so it was very said that they were in circumstances surrounded by teachers who were unable to meet those needs for attention.

Michael was a very bright child, but he expressed his intelligence in ways which his teacher found inappropriate, drove her to distraction and constantly got him thrown out of the classroom. In fact, school started for him at 8:20 in the morning. Our social skills staff arrived to start the 9 o'clock session, but I usually got there at about 8:40. And at 8:41, I could count, on the 3 days a week that Michael and his teacher were in the classroom together—usually, he missed a day or she missed a day—but those 3 days that they were together, I could count on a phone call 1 minute after I entered the building, to come and get him out of the room.

Michael's mother was a prostitute. His father had been her pimp. Michael had been removed twice in his young life and returned because, once again, his parents minimally complied with their case plan.

I share this to give you a sense of his sad entry into life. It is matched by his sad exit—because Michael died at the age of 7 after falling from a third-story window. He had been at home, unsupervised, left alone basically to supervise his 3-year-old brother.

Michael is the reason why I went to law school to learn to advocate for children like him. He is also the reason I flew here today to talk to you and to thank you for your interest in the children like him who have no voice to speak up for themselves and who have to rely upon the grownups like us to "read their cues" and to ensure that other children do not die needlessly simply because there were not enough resources or opportunities in the system for professionals to do the job of making sure these children were in safe, nurturing and permanent homes.

We need to take tough action now to say once and for all that there are some parents for whom all of our best efforts will never be enough. We need to have clearly defined criteria which allow the professionals to say unequivocally—and I am pulling from Mr. Digre's testimony back in June, and we have even added to it—parents who murder or maim children, parents who aggressively assault children, parents with histories of violent criminal behavior or domestic violence, parents who abandon children in life-threatening situations, parents with long-term and chronic addictions which place children at risk and who have rejected treatment or relapsed from that treatment, parents with long-term and chronic conditions which place children at risk and who have refused treatment, and parents who repeatedly withhold medical treatment or food when they have the means to provide same. This will automatically trigger a petition which moves to quickly sever parental ties and free those children to be loved, supervised and cared for by foster and, hopefully, adoptive parents who are willing to take on the responsibility for their upbringing.

Then and only then will I feel that my promise to Michael's memory has been fulfilled. Then and only then will all of us be able to go to bed at night assured that the children of our global community have the ability to experience visions of sugarplums and not the ugly nightmares of abuse or neglect.

Thank you.

Senator DEWINE. Ms. Jones, thank you very much.

[The prepared statement of Ms. Jones may be found in the appendix.]

Senator DEWINE. What we will do is hear from all the witnesses and then open it up for questions.

Our next witness is Sharon Aulton. Ms. Aulton, you may begin. Thank you.

Ms. AULTON. Thank you, Senator and other distinguished members of the Labor and Human Resources Committee.

My name is Sharon Aulton, and I would like to thank you for inviting me before the committee to share the tragedy of my granddaughters, Christina Lambert and Natalie Aulton.

My story begins with my daughter Rene. Rene has a low I.Q. and is emotionally unstable. This condition resulted in her receiving special education services as a student all of her life. She has never lived on her own. She has never been able to keep a job. She is an

extremely needy person and gravitated toward boys and men who were just as dysfunctional as she.

She subsequently became pregnant and gave birth 12 weeks prematurely to my grandson, Mark. The baby was in a neonatal intensive care unit for 2 months, and during that time, she visited him maybe three or four times total. I visited him three or four times a week, plus called every day from work to inquire as to how he was doing.

On the day of discharge from the hospital, the doctors found a bilateral hernia, and he had to have emergency surgery at Johns Hopkins. He only weighed 5 pounds at the time, so it was a very critical operation. I spent the night with him at the hospital while his mother stayed home, waiting for her boyfriend to call.

Right from the beginning, I had to become this child's primary caretaker. I took Rene and the baby into my home with certain ground rules. She found those rules too restrictive, and she did not like being told what to do. While she was home, though, social services, because of the baby's medical condition, sent a visiting nurse to the house a couple of times a week to check on the baby and to see how Rene was taking care of him. I would also come home from work at lunch time, as I work not far from where I live, and I would check on the baby and see how he was doing.

One afternoon, I came home to find Rene and Joe, the baby's father, packing up the baby's things and preparing to run off with him. This was a baby who was hooked up to an apnea monitor because of respiratory problems; he had just had emergency surgery and was still considered a medical risk because of complications of prematurity. Neither parent had a job, a place to live, or resources to take care of this ill baby. When I attempted to stop them, I was assaulted by Joe while being restrained by my daughter.

Until the deaths of Christina and Natalie, the hardest day that I ever had to face was deciding to press charges and have my daughter arrested and having to give my grandson to the custody of the department of social services. My heart was broken, and I was grief-stricken because I had to give up this baby that I had bonded with and considered my own.

Mark was placed in a foster care home until I could find day care, which was impossible because the child was ill, and I could not find an appropriate day care provider. When he was 9 months old, I found a day care facility that would take care of him. I then made visits to him on weekends. When he became a year old, I became his full-time permanent foster mother.

After many hearings and attempts by the court to reunify the child with his parents with no success, I received legal custody and have been raising my grandson. He will be 9 years old in January.

After the custody of the baby was transferred to me, my relationship with his parents was strained and sporadic. The father received a sentence of 1 year, suspended except for 1 month, for the assault on me. The parents then moved from Anne Arundel County to Talbot County, where she became pregnant with Christina, the child with the red hair. It was only after Christina was born that I resumed a relationship with them.

I adored Christina the minute I laid eyes on her, but Rene and Joe were so dysfunctional that they could not parent properly. I

visited when I could, but our relationship never got any better. If anything, it got worse, because I would tell them what they should do in order to take care of themselves and the baby. They did not want to hear it, and they hated me for "taking" their son. I tried to explain that I did not take their son, but that the court gave him to me because they did not meet any of the conditions of the plans to reunify the family. They absolutely would not take any responsibility for their actions. They perceived me as being the person who "took" their child.

Talbot County Social Services became involved when they became homeless and called me and asked me to take them all in—Rene, Joe and Christina. I said that I would take Christina, but I would not take the parents. They refused and said that they would not split up the family and put them up in a motel until they could find housing for them.

Joe was subsequently arrested for molesting three young girls and was sentenced to 10 years. He is now serving time at Eastern Correctional Facility in Easton. Since Rene could not or would not take care of herself, she moved to Baltimore County with another man. I did not know her whereabouts for 9 months, and I was frantic with worry about Christina.

One day, out of the blue, I got a phone call from Rene. "Guess what, Mom? I have had another baby, and her name is Natalie. Would you like to see your new granddaughter?" There was no mention of the fact that I had not seen or heard from her for 9 months. She acted as if we were having a conversation about the weather. Natalie was already 1 month old.

I was overjoyed at seeing Christina again and seeing the new baby, but shocked to see the conditions that they were living in. She was living in a filthy slum. They slept on mattresses on the floor, and they also ate their meals sitting on the mattresses.

Natalie was a biracial child, and the only reason I mention that is because the man she was living with was white, so he was obviously not the father of the child.

Since I had not seen Christina for almost a year, I asked to take her home with me for the weekend. I then began a pattern where I would visit and play with Natalie and take Christina on weekends and vacations. I became very close to Christina, and she became extremely close to me and to her brother. Her personality would change from a sad, worried little girl to one who would smile, laugh and play.

I called Baltimore County protective services and told them the children were being neglected and related the parents' history to them. The girls were living in horrible conditions. When they investigated, they found the apartment filthy, but that the children were well-nourished and appropriately clothed. The department was unable to substantiate any neglect in the case, and I was told that I was to blame because as long as I was rescuing and buying clothes and food for the children, they were not being totally neglected.

The man that she was living with kicked her out, and the children and she wound up in Baltimore City. She was living with a woman at that time who had two children. Social services was called to investigate that family, and those two children were re-

moved from the home. I assumed erroneously that they were also looking at Rene and the children, but much to my surprise, much later, I found out that they were not. How can they remove one set of children from a home and not the other? When I inquired, I was told that no one had filed a formal complaint. I told them that there were complaints on file from Baltimore County, and Anne Arundel County had a record of me having custody of the first child. But I was told that Baltimore County was a different jurisdiction from Baltimore City. And did they follow up based on my conversations with them? No. I later found out that because I had not filed a formal complaint with the protective services people that they did not investigate further. Because she moved from place to place and from county to county, I had to start the process all over again.

Rene was eventually evicted from the house and became homeless again. She was on the street with the children and stayed wherever someone would take her in. She absolutely refused to let relatives take in the children. I called protective services and begged them to take the children. By this time, she was in a Salvation Army homeless shelter, and 1 month before their death, Baltimore City social workers told me that there was not enough proof of neglect to take the children from their mother. When I argued that they were living in a homeless shelter and that Christina had been ill for some time, the social workers told me that being homeless was not a reason to take the children, and that their mother was "trying" and loved her children. I never doubted that my daughter loved her children. She never abused them. She never physically did any harm to them. But she could not take care of herself. How did they expected her to know how to take care of two little girls?

Another resident of the homeless shelter filed a complaint with protective services as Rene was leaving them alone in the room, as did the day care center where the children went during the day. Eventually, somehow, Rene got some subsidy from an agency—I do not know what the agency was—and she was allowed to move into an unsafe building.

On November 15, the caseworker assigned to investigate the case arrived at the new address to find the fire engines at the house and received the news that the children had perished in the fire. This was 1 week after the complaints were filed.

My granddaughters are dead because of a law that says children should be reunified with their parents. Parents have all the rights and the children none. My granddaughters are dead because of the many layers of bureaucratic bungling by the department of social services. My granddaughters are dead because of the inefficiency of an agency that employs unskilled and untrained social workers who did not seem to be able to make appropriate decisions, but kept quoting me the law. My granddaughters died 2 years and 5 days ago because the system failed to heed the warnings of responsible people who were trying to protect them.

My daughter was eventually convicted of two counts of first degree murder and is now serving two life sentences without the possibility of parole. It has been an agonizing 2 years for me when I know it should not have ended this way. I have buried two chil-

dren, seen my daughter put in prison for the rest of her life, and my grandson, who is multihandicapped, is in a residential school for disabled children. My losses are many, and my grief is overwhelming—and it could have all been prevented.

Senator, this committee has the ability to change the system and make the best interests of the children its primary focus.

Thank you for hearing me.

Senator DEWINE. Thank you very much, Ms. Aulton, and thank you for having the courage to come forward today and give, what has been for you very difficult testimony, I am sure.

Senator DEWINE. Our next witness is Peter Digre.

Mr. DIGRE. Senator DeWine, Senator Pell and other members of the committee, thank you very much for the honor of being here today. As you indicated, I am responsible for the largest child protection agency in the country, Los Angeles County.

Family preservation and reunification are important goals. In California, family reunification is successful about 78 percent of the time for infants and 84 percent of the time overall. However, as we know, we cannot ignore the fact that at least 22 percent of the time, infants who are reunified with their families are subject to new episodes of abuse, neglect or endangerment.

In addition, in California and throughout the country, the original problem that the 1980 law addressed, the problem of numerous children growing up without legally permanent families, continues to grow unabated. Long-term foster care without adoption is not stable, and it is not permanent. The Child Welfare Research Center at the University of California found that 83 percent of toddlers—that is one-year-olds and 2-year-olds—entering nonrelative foster care had a change of foster parents within 6 years; 62 percent had three or more foster parents, and fully one-third had five or more foster parents.

Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day. The University of California study also found that fully 30 percent of the newborn infants entering foster care were neither adopted nor reunified after 4 years, but rather continued in long-term foster care. I have attached charts for each of those pieces of data for you.

The final tragedy of children growing up without lifetime parents occurs when they reach 18 and leave foster care, becoming fully independent without a family to fall back on and rely on. This is nearly an impossible task, one that my 18-year-old daughter certainly could not have achieved and that I do not believe I could have achieved. Indeed, I am 52 years old, and my mother still keeps a bedroom for me in her house. I will not become homeless, but many studies indicate that as many as 40 to 45 percent of 18-year-olds who leave the foster care system do in fact become homeless.

So I would like to make four suggestions to you. First, I think the DeWine amendment is absolutely brilliantly stated, and we should emphasize child safety as the first priority.

The word "reasonable" is often read out of "reasonable efforts," creating situations which we have heard horrible descriptions of, in which children are placed in danger and reabused in the name of family preservation and family reunification. This could be cor-

rected with a simple statement of legislative intent very much like the one on the board right next to me, stating that child safety is the first priority always.

Another thing we might consider is stating explicitly that judges and child abuse workers must make statements of fact as to why they think that children will be safe. I think the description we heard earlier—child welfare is often very much like prison therapy. It is just amazing in prison when people get early parole. Everybody goes to church, everybody goes to the counselor, and everybody makes progress in counseling. Child welfare is exactly the same situation. You have a judge reviewing your progress, you have a judge reviewing your drug tests. It is not surprising that people are able to get clean drug tests if they know that a judge is going to be looking at the results of those drug tests or that they will attend parenting classes. Everybody must take a careful, analytical approach to make sure they are willing to put their signature on the line, that they are comfortable that the children are going to be safe.

Finally, lawyers who represent children should advocate only for decisions which are consistent with child safety. In California, we have passed legislation which embodies each of these principles, and I have attached a brief summary for you. We had a real strong debate with a good deal of the legal community in the State of California because the assumption is that many lawyers who represent children believe they should represent the wishes of the child, even if that wish is to be placed in harm's way. It is a very serious ambiguity in the role of lawyers in the dependency court, and something that I think lends itself perfectly to a legislative clarification.

The OBRA 1993 family preservation and support efforts also deserve your attention. I was very pleased to hear from Olivia Golden that policy and regulations are being issued. I would go a step beyond general policy and also put specific standards in the regulation, including the statement that, as was indicated, the child's safety is the first priority. I would put in a requirement for risk assessment, I would put in a requirement for intensive in-home visitation, and I would put a requirement for comprehensive services so that families are getting the many services they need.

In Los Angeles, we have a program based on intensive visitation. If we are going to preserve a family, we require a community-based agency to be in the house either four, eight, or 16 times a month, making sure the kids are safe, and we are seeing that about 85 percent of the time, we can successfully preserve families, and in those 15 percent where we cannot, we have intensive enough supervision so that we are able to make a safe removal of the child and a well-documented removal to make sure the kids are safe. And in my more detailed talk, I outline other standards of visitation which I think should be built into the law and the regulation, including forensic pediatric examination, background screening, and more training for foster parents and workers.

My second point is that we need much more emphasis on legal permanency for children. A child who is adopted has parents for life. A child who grows up in foster care, as I said, will inevitably have many caretakers and will not have assurance of any home

whatsoever ever when he or she turns 18. Adoption is vast preferred to long-term foster care.

I think there are a number of things we can do to get to this goal. No. 1, as was suggested by the director, is to reject unreasonable efforts and simply give up on certain classes of parents, which have already been enumerated, who are simply too dangerous to make the attempt to reunify their young children with them. In such situations, it is futile and unreasonable to endanger children to make efforts to preserve or reunify their families, but rather, put these children on a fast track and give them a chance to be adopted.

Second, I believe it would vast strengthen the law to simply introduce the concept of reasonable efforts for legal permanency. Strangely, the concept of reasonable efforts applies only to preserving and reunifying families and does not address the compelling need of children to have permanent legal parents for life. I think it would be very simple.

We have also passed legislation in California—and I have attached a summary for you—to embody these principles in our statute, and our Governor just signed it a couple of months ago.

My third point is to improve the life chances of those tragic thousands and thousands of children who are growing up in long-term foster care and who are going to emancipate having had many foster parents, many group homes, and will become fully independent at age 18. I think we should simply have a national declaration of intent that when those kids emancipate, they are going to have a place to live, they are going to have proper training for independence, they are going to have employment or income, they are going to have some kind of basis of health care—simple things—they are going to have clothing when they emancipate, and they are going to have their medical, educational and other records together.

Second, there is much to do within current resources to pull together housing resources under HUD, to pull together employment resources under JTPA, and for all of us to chip in and make scholarship opportunities available for these young people, and I describe some of the things we are doing in each of those areas in Los Angeles. We were also successful in passing legislation in this arena that targets each of our colleges and our universities to reach out to youth growing up in foster care, to attempt to make college and university education available to them. One piece of legislation we were unsuccessful with was what I suggested in terms of getting the goal nailed down that children when they emancipate will have jobs, clothing, housing, income and opportunities to make it on their own.

I would like to suggest also that two features of Public Law 104-193 be looked at carefully for clarification. One is that we do have some families who, even though they are involved in drug crimes, do become totally drug-free, and I think it would make sense once families have paid their debt to society, once they have become totally drug-free, for them to have an opportunity to participate in economic assistance.

Second, I think the law could use some clarification about grandparent caretakers and whether, when they are receiving temporary

assistance to needy families, they will have to also meet the work requirements and the requirements for the 5-year time limit.

I would like to also suggest to the committee—and I have attached a summary—something that is really quite amazing. The Third National Incidence Study of Child Abuse and Neglect recently published by the Department of Health and Human Services shows a very, very dramatic increase in the serious injury in abused and neglected children and correlates this very strongly to the kinds of economic opportunities that families have, which I think shows us how important it is for all of us to increase opportunities for families in our country.

I would like to thank you very, very much, Senator DeWine, for this hearing. I just want you to know that Los Angeles County thinks you are right on target, and we will fully support your amendment with great enthusiasm and great energy.

So thank you very much for this opportunity.

[The prepared statement of Mr. Digre may be found in the appendix.]

Senator DEWINE. Let me thank all of our panelists. Before turning to Senator Pell, let me just mention that Senator Jeffords had planned to be here, but he reports to me that he is stuck at Walter Reed this morning with a dead car battery, so he sends his regards to all of you.

It should be noted that Senator Jeffords was a Member of the House when the Adoption Assistance and Child Welfare Act of 1980 was passed, and he does agree that Congress did not mean that families should stay together at all costs, especially where health and safety is at stake.

Senator Jeffords has provided the committee with a statement for the record in his absence which, without objection, I will now make a part of the permanent record of this hearing.

[The prepared statement of Senator Jeffords may be found in the appendix.]

Senator DEWINE. Senator Pell?

Senator PELL. Thank you, Mr. Chairman.

I am so glad that you are conducting this hearing. I have just one question, which is what does the panel feel will be the best way to get better coordination between the courts and the caseworkers, hospitals and the custodial people. Doesn't a great deal of this problem come from falling between the cracks? I was just interested if you have the same concern.

Ms. Jones?

Ms. JONES. I would say that one of the best ways is to tie funding to collaboration. I think that as we have become a community which has a heightened sense of accountability from our social services agencies, as we look at outcome-based budgeting processes, especially in those counties where there is an ability to have a collaborative effort in funding, I think that that is probably the best way to get the attention of those organizations in order to force some of that collaboration. Most of it is happening voluntarily. There is a great deal of collaboration and many more coalitions than there used to be because we recognize that there are dwindling resources, both financial and human resources, in the system. But I think that to the extent that we can tie some of the funding

streams to encourage innovative and creative collaborative efforts, we can get that kind of a result.

Senator PELL. Thank you very much.

Ms. Aulton?

Ms. AULTON. You know, there is a central repository for criminals where a person's history goes with him for the rest of his life. There is a central registry for criminals. It seems to me that there could be some sort of a central database in one State so that when an individual moves from county to county, that data can follow that parent wherever he or she moves, so that the history does count. The history of the parent is so important.

My daughter would show up at her hearings. Every 6 months, there would be a hearing, and she would show up, and they would tell her to do this, this, and this. "Yes, sir, yes, sir, I will do it; no problem." She could never follow through.

To me, the parents' history is of paramount importance. And if custody has been granted to one parent, to a grandparent or to another individual, then that shows—if one court finds that individual incapable of parenting, then that should be a red flag to let the next court know.

Senator PELL. Thank you.

Mr. Digre?

Mr. DIGRE. I think this amendment is very, very helpful in that because it puts everybody on the same song sheet. I agree with the testimony that was given earlier by Dr. Gelles and others, that there is massive confusion as to what this term, "reasonable effort," means. The result is that when you go into court, the judge may be interpreting in one way, the lawyer for the child in another, the child welfare worker in a third way.

So I think the reality is that everybody is singing off different song sheets, and I think an amendment like this that says clearly and unequivocally that the safety and health of the child is the primary consideration just puts everybody on the same sheet of music and on the same melody line. I think that that is very important.

Second, I think the more we prescribe standards that everybody knows—everybody knows—are absolutely necessary, such as seeing the kids regularly, such as getting a battered child to a forensically trained pediatrician to get a good examination that will hold up in court, such as checking out the criminal histories of people who are alleged batterers—when you see that big history of drug selling and domestic violence and armed robbery, goodness gracious, how can you possibly make any kind of decision unless you know what that is? Yet most States do not require anything like that, do not require you to even check out what the background of the perpetrator is.

So I think the more you can nail down some of these simple and basic standards in the context of an overall policy admission very much like the DeWine amendment gives us, I think that is a big step forward to better integration and coordination because it is common for everybody to be singing a different tune right now.

Senator PELL. Thank you very much indeed.

Senator DEWINE. Ms. Aulton, let me just say that your testimony of all the testimony has really put a personal face on what we are talking about. When you talk about your two grandchildren, and

we see the pictures up there, that makes it real. Sometimes we look at statistics and listen to stories, but we are not really talking to people who have lost someone. The fact that you were willing to come here today and tell us about your two grandchildren, tell us in essence what happened and why they died, I think helps us a great deal to really understand the human reality of what we are talking about—that these are little children who have died, whether it is Dr. Gelles' example of David, whose picture we do not have, but I think it helps us understand what this is all about and the importance of the Federal Government in no way impeding but rather trying to assist, as we have tried to do, in what decisions are made at the local level. So I thank you very much for your testimony.

Director Jones, you told us about this little boy who was 8 years in the system—or family, I guess; three boys, and the oldest was 8 when you first saw the child—is that right?

Ms. JONES. He was 5 when he came into the system.

Senator DEWINE. He was 5, and he was in for 8 years, so he was 13. Do you recall what were the ages of the other children?

Ms. JONES. I think the other two were 18 months and 3 years old. The one I became the most knowledgeable of was the oldest boy, the 5-year-old.

Senator DEWINE. But to your knowledge, they were all, quote, "in the system," for 8 years?

Ms. JONES. That is right.

Senator DEWINE. We think, at least, as a society, since the 1980 law that we have made some progress in regard to how long children are "in the system." What can you tell us about your own experience in this area—and I guess you have really seen this from several different angles, haven't you? You talked about the school where you were in the Over-the-Rhine district in Cincinnati, and you have also had court experience as well.

Ms. JONES. Right.

Senator DEWINE. You were a referee; is that correct?

Ms. JONES. I was a referee in juvenile court.

Senator DEWINE. So you saw it from the court's point of view. Now, of course, in your current position as director, you have the overall responsibility for a major county in the State of Ohio and the children in that county, so you certainly have a wealth of experience.

Can you comment on any of the testimony you have heard so far or your own experience about how long children are now languishing in the system and what, if any, progress we have made and what else we need to do?

Ms. JONES. We have made small progress, in all honesty, in terms of the time frame. We have certainly seen all of the States put time limits on the record. But what happens is that we just keep refiling the cases, and we still have children growing up in the system. I think it is still very typical—I think the typical time limit right now is about 2 years. That would probably be about the national average. But I think that more often we will find those exceptional cases that go from county to county 5 years and, in this case, the 8-year situation, and there are a lot of cases out there like that where, because the children are moving from foster home to

foster home, and the time runs out, and we do not have quite enough evidence to prove to the judge that we do need to terminate parental rights, the case ends up getting refiled, and we start all over again—or mom comes out of a treatment program, and the judge says she deserves a right to have another chance, so you start again, and she gets 2 years, and that time runs out, and she gets another 2 years. It is a very frustrating process.

Senator DEWINE. As a practical matter, is that how it works in a court, where the judge and everyone get together—or the judge independently, based on what evidence he or she has heard—and say, okay, we are going to give this mother—or this father—6 months, a year, 2 years—is that how it works—and then the case really does not get reviewed by that court again until that time period has run? Is that how it works? Any of our witnesses, just jump in, please.

Ms. AULTON. The cases get reviewed every 6 months.

Senator DEWINE. In Maryland, in your situation.

Ms. AULTON. In Maryland.

Ms. JONES. And even in Ohio. And it varies from jurisdiction to jurisdiction. I have had the advantage of sitting in court in a number of States from the role with CASA and seeing just how widely it varies in fact. Sometimes those 6-month reviews are very thorough, detailed reviews of the child's case; other times, it is a very cursory minute and a half, what is going on in the case, how is everybody doing, and everybody is quick in and quick out of court. So it does vary significantly from State to State.

Mr. DIGRE. I think there is an enormous amount of lethargy in the child welfare system. The easiest thing in the world is to let a child slide into long-term foster care. Getting a child freed for adoption is hard. The foster parent has to make a lifetime commitment. They may be scared to death of making a lifetime commitment. The child's social worker has to get a case ready for court and has to go in there and win in an adversarial hearing. The judge has to have a trial, and the lawyer for the parent, of course, that is the last thing in the world they want; they would rather have a plea bargain. Long-term foster care is sort of a plea bargain for them because parental rights have not been terminated.

So you have got the weight of all the interests in this system——

Senator DEWINE. Except the child's.

Mr. DIGRE [continuing]. Except the child's—exactly, exactly—except the child's. That is why I think there needs to be a real definitive statement in the Federal law, something like "reasonable efforts for legal permanency," to just give it a big push and a big clarification as to exactly what the intent——

Senator DEWINE. It is an interesting point that you make. We have reasonable efforts for family reunification, which is understandable, but we do not have what is probably the most important thing from the child's point of view, and that is the permanency and the reasonable efforts toward that permanency that you are talking about.

Mr. DIGRE. Exactly.

Senator DEWINE. You cited, in fact—if I can find your statement, I wanted to ask you about this, and it pertains to this—you State

that "In 1995, only 5 percent of the children in foster care longer than 24 months were reunified."

Mr. DIGRE. Yes.

Senator DEWINE. So what that should tell us is that any child welfare agency in this country that has on its books a child who has been 24 months in foster care or 24 months in the jurisdiction of that unit in a particular county, the odds are 20-to-1 that that child is never, never going back home, never going back to those parents.

Mr. DIGRE. Yes.

Senator DEWINE. Those are pretty awesome odds, and it would seem to me that as a society, we need to really look at that and say if it has gone that long, and we know statistically the odds are 20-to-1 that child is never going back there, what in the world are we doing? It would seem to me that there would have to be a very compelling reason for the authorities in that case to say let us continue the case again.

But I think you have described it very, very well—all three of you have—that the easiest thing to do is to continue the case—that is the easiest thing to do in any case, frankly. Unless someone is pushing for resolution of a case, it is always easier to say, "Yes, we will get it together in 6 months." And that is a civil case or a criminal case, where delay is important but certainly not as important as the formative years of a child's life. And to me, that is what is so disturbing about this whole situation, that that child does not have a chance to be 2 again. Never again, ever, will that child be 2 again. Never again will that child be 9 months or 10 months.

We know from our own experience with our own children that that is so very important. We have children ranging in age from 4½ to 29—we have eight children—and our youngest daughter, Anna, who is 4½ now, when she was 2½ had a pretty definite personality. I am not saying that the personality does not continue to evolve, and the learning of a child continues, but a lot of things are set, and they are pretty hard to change or alter in any way the longer it goes.

So it just seems that that should be such an imperative in our system that it ought to take precedence over just about anything else because that really is the welfare of that child. But everything in the system, you are absolutely right, just the nature of the system—everything is pushing toward the path of least resistance, and least resistance clearly is to do nothing—or continue the status quo.

Mr. DIGRE. Absolutely—which is long-term foster care.

Senator DEWINE. Which is long-term foster care.

Mr. DIGRE. Exactly.

Senator DEWINE. Are there any other comments from any of the witnesses?

[No response.]

Senator DEWINE. Senator Pell?

Senator PELL. Just one question. The revisions that were made in the recently reauthorized Child Abuse Prevention and Treatment Act would, I would think, make quite a difference in this area. I was interested in the reaction of Mr. Digre, who is acquainted with the legal aspects of this.

Mr. DIGRE. Well, one of the areas, the emphasis on relative placement, is something that we have pushed for a long, long time, and we are at about the 55 percent level and have a clear relative placement requirement in our policies. And I believe that on the whole, that has worked very, very well, so I guess in general I am very supportive.

Senator PELL. And the good thing in this whole field is that it is a bipartisan endeavor, which I hope is a habit that will spread throughout the Congress.

Thank you, Mr. Chairman.

Senator DEWINE. Yes, in many fields and in many areas.

Since we have the experts here—and Dr. Gelles, you can jump in here, too, and in fact, if you want to join the witnesses at the table, you are welcome to do that, and feel free to jump in—we keep talking about foster care, and I wonder if any of you could give us an insight into or an overview of foster care today, particularly in regard to how often a child might be expected to move in foster care, which is a particular concern that I think all of us have, that if a child does have to be in foster care, we certainly want as much stability as possible. That is important for the child's psychological well-being, and it is also an important thing for the child going to school, I would assume.

You State, Director, in your statement, "Long-term foster care without adoption is not stable and not permanent. The Child Welfare Research Center at the University of California found that 83 percent of toddlers age 1 to 2 years entering nonrelative foster care had a change in foster parents within 6 months, and 62 percent had three or more foster homes. Almost one out of three had five or more foster homes. Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day."

Mr. DIGRE. Yes. I have an attachment that lays out exactly what the University of California found, and what is so amazing is that you see a similar pattern of instability at every age, including the infants and toddlers. You see that 50 percent, for example, of infants under 1 year of age would have three or more foster parents within a 6-year time period by the time they are 6. With teenagers, of course, there is even more instability.

I do not read into that that the foster parents are entering the field for bad motives—just that they do not intend to be permanent parents. That is not what foster care is, and they do not behave like permanent parents; they move, they retire, they decide to do something else. They are not making a lifetime commitment to the children.

So I think we just have to go back and reinforce those basic principles that foster care is intended to be short-term and temporary, and it certainly is not a lifetime solution for any child because it is just simply not intended to be permanent, and it is not permanent.

Senator DEWINE. Director Jones?

Ms. JONES. If I could interject, as the permanent mother of a foster child—I took a girl in when she was 13, and she is now 32—she would kill me for telling her age if she were sitting here—of course, we were both very young at the time—but she is still my child. She knows where she is going to be for dinner next week.

I think that the piece in the Ohio legislation that allows us now to do a home study and to prepare the foster parent to become the permanent parent of children is a very critical piece and very important for helping those children achieve stability. It is so critical. They need to know that there is a permanent home. They need to know where Christmas is going to be for them. They need to know where their traditions are set.

I could not agree more in the sense that the way we currently have foster care set up across the country does not do that. While we do not have enough adoptive parents out there, and we have to turn then to foster care givers, we need to find a way, though, to provide more stability within the system—long-term, permanent stability within the system.

Senator DEWINE. Director, you made another statement which I would like you to elaborate on, on page 3 of your testimony. This is one of your recommendations: "Judges, hearing officers and child abuse workers must make specific statements of fact which indicate why they conclude that children will be safe in family preservation or reunification decisionmaking."

I guess if a layperson looked at that, he or she would ask, isn't that done now?

Mr. DIGRE. No, it is not. Decisions are handed down, and they are the decisions, and it is as simple as that.

Senator DEWINE. The judge made it, and that is it.

Mr. DIGRE. Exactly. And there was an earlier description by Dr. Gelles, I believe, that the whole system is sort of on autopilot. A minute order is issued. The minute order is to complete 10 parenting classes, get positive drug tests, get a letter from the counselor saying you are making progress, and when those three things are done, you get your child back. That does not really deal with the fact that you have a 4-page criminal record for drug selling, armed robbery and domestic violence and, as Dr. Gelles said, a lifetime of violence and addiction. Ten counseling classes and three clean drug tests may or may not indicate a fundamental change in life, so it takes a lot more than a simple "management by objectives" approach to a court minute order; it takes a real careful analysis of has this person changed his or her life, and is something fundamentally different. That does not lend itself to the simple check-off—the parenting classes, the counselor says they are making progress—kind of approach that we take now. It takes analysis, and it takes really coming up with a careful analysis and stating, "Here is why I think things have changed."

Senator DEWINE. It has been my experience in other types of cases that a requirement that the judge spell out the reasons for a decision—or any decisionmaker—when you have to put it down in writing, it alters how you approach the decision because there it is in black and white for the whole world to see, if anybody wants to see it, and those who are entitled to see it can see it. You have to put down those reasons. I think that that is an excellent recommendation.

I am also interested in your third point: "Lawyers and guardians ad litem who represent children must advocate only for decisions which are consistent with child safety." You explained that a little bit. Is it my understanding that the problem that you see here is

that a child may say, This is my position, and I want to do thus and so. And as lawyers, we are trained to represent our client, and what you are saying is that the guardian ad litem should have perhaps a bigger view, or—how would you describe it?

Mr. DIGRE. Exactly, both as an independent fact-finder for the child and, most importantly, it is very common for children to have the wish and the desire and the want to go home. There are very few children who are moved from even very heinous situations of abuse and molestation who do not simply want to be back with their parents. So it is very, very common for children to very strongly tell the court or tell their lawyer that all they want is to be home again.

Senator DEWINE. And you see that with children who have been horribly abused?

Mr. DIGRE. Absolutely, and I think there is really confusion among at least some lawyers. And actually, our California Judicial Council actively opposed our legislation based on this issue. We got it passed—it was not easy, but we got it passed, and a copy of this legislation which incorporates this principle and was signed by the Governor is attached. But it was a very, very aggressive debate in the California legislature over that one premise, and just to clarify that you are not to take positions that are incongruous with the child's safety. And there was just a lot of assumption that, wait a minute, I do it, my client wants me to do it.

Senator DEWINE. Again, it gets back to your testimony and, really, the testimony of all the witnesses, which is that ultimately, what we as a society should be looking at is the best interests of the child.

Mr. DIGRE. Absolutely.

Ms. JONES. What Mr. Digre is saying is so cogent because even with the reauthorization of CAPTA, it went a little further to clarify the role of the guardian ad litem, but we are still not quite there yet in making it real clear that the guardian ad litem's role is indeed to advocate for the best interests of the child and to be the objective party in the action. So that is another area in which we might want to be more prescriptive.

Senator DEWINE. I have one final question, Director Digre, and let me quote from you: "At the same time, too little attention has been paid to well-known and basic standards that would vast improve child safety. We are left with a thousand pilot projects without a core program, making any definition of family preservation impossible."

Can you elaborate? I am not sure I fully follow that.

Mr. DIGRE. Yes. We have very aggressively in Los Angeles developed what we think is a safe and comprehensive family preservation system. We work with community-based networks of agencies. We require them to package 23 different supports that families need, everything from drug rehab to economic assistance to mental health services to transportation to day care, into one package. Most importantly, we require them to be in that home constantly, depending on our view of the family, either 4, 8, or 16 times a month, so they are constantly seeing the kids.

That is an infrastructure of requirements for a focus, a priority, of safety, constant in-home visitation, carefully checking out the

backgrounds of families so we know who they are, that is not embodied in any standards whatsoever. I have been horrified when I have seen terrible things happening under the name of family preservation, and I look and discover that it has nothing to do with the kinds of programs we are running.

I think that is one of the problems. There are certain things—you have got to see the kids regularly, you have got to check out the background of everybody in the house to make sure you know what you are dealing with, you have got to do careful risk assessment, you have got to make sure you are dealing with trained people. We know what keeps kids safe, and I think these things that are well-known simply ought to be incorporated in the law or in the regulation as a requirement for everybody who uses that phrase, "family preservation," so there can be an assumed threshold of safety standards in place.

Senator DEWINE. What you are saying—if I can be a little more blunt—is that there are programs out there that there is no proof that there is any relationship between what is going on in the program and improving the situation.

Mr. DIGRE. Yes. I think the term practically defies definition because it means so many different things.

Senator DEWINE. But there are in the field and, based on our experience, certain things that we do know, certain basics which you have articulated.

Mr. DIGRE. Absolutely. I list some in here, and of course, there are many others as well.

Senator DEWINE. Well, I want to thank all the witnesses.

Senator Pell, do you have any additional questions?

Senator PELL. No.

Senator DEWINE. Thank you.

I want to thank all of you very much. The testimony has been extremely helpful. I think we have had some real experts here with opinions not only about the specific language that we are talking about to clarify what originally was the intent of the 1980 Act, but I think we have also come up with several other interesting ideas that I certainly intend to pursue.

So again, we thank all of you very much. This testimony has been very, very helpful, and just for the record and the benefit of the audience, I intend to continue to push this upcoming Congress to clarify this law and to really get us back to where I think the authors of the law intended in 1980, and that is that the ultimate decision has got to be made based upon the best interests of the child, and that when the caseworker or the social worker at whatever agency we are talking about, in whatever county and whatever State, makes the decision, we should try to give them as much help and assistance as we can, and we should not in any way with the Federal law, even unintended, impede them in making a decision to do what is in the best interests of that particular child. They are the ones who are on the scene, they are the ones who know the facts. We can give them guidance, we can set some basic parameters, but ultimately they are the ones who have to make that decision, and I think we should continue to try to support them as much as we can.

One of the things that all of you have mentioned is additional training for people who are in the field who must make these very, very tough decisions. There are many ways that we can shore this system up. We cannot make it perfect, and we cannot insure in any way that tragedies will not occur, but I am convinced that we can reduce the number of tragedies that occur. There are things that we know, and since we know them, we should act, and if we do not act, I think the responsibility is ours.

So again, I appreciate the testimony.

Senator Pell?

Senator PELL. I would just add that while I will not have the joy of being in the upcoming Congress, I applaud your efforts and would urge my colleagues to support this in the nonpartisan way that this subcommittee particularly has acted on other issues in the past.

Senator DEWINE. I appreciate that very, very much, Senator. If there ever were an issue that should not be partisan in any way, it is the welfare of young children, and particularly young children who have been abused. I have found a real bipartisan feeling about how to approach this issue, and I hope that your comments are listened to, as I am sure they will be.

Again let me thank our witnesses very much for their testimony.

The meeting is adjourned.

[The appendix follows:]

# APPENDIX

## PREPARED STATEMENT OF SENATOR JEFFORDS

Thank you Senator DeWine. Let me first take a moment to thank Senator DeWine for hosting this hearing. Senator DeWine has been a true leader in defending and promoting the interests of children, and I want to thank him for those efforts. Let me also express my appreciation to the witnesses who are here today. We are grateful for your time and expertise.

As you all know, questions of how to handle child abuse and neglect are ones that the Congress has struggled with for the better part of this century. We established the U.S. Children's Bureau in 1912, and I think we've been trying to improve the situation for abused and neglected children ever since. And, certainly, as a society we have struggled with this issue for centuries.

As I stated a moment ago, I am grateful to Senator DeWine for bringing this issue to our attention. I was a Member of the House when we passed the Adoption Assistance and Child Welfare Act of 1980. We included language requiring "reasonable efforts" to keep families together even in situations where there may have been some history of abuse or neglect because I think all of us recognize the need to support families and provide the tools that parents need to be successful as parents. I concur with Senator DeWine, however, that we couldn't have meant that families should stay together at all costs, particularly when the "cost" may be the health, stability, and well-being of the children.

There will no doubt always be a certain amount of tension between these two sometimes conflicting interests—the best available care for the child, versus the rights of parents. Still, through the simple fact of recognizing that some "fine-tuning" may be necessary on this law, and through open discussion of how best to resolve those tensions, I am confident that this is an issue that we can address successfully.

Again, thank you to Senator DeWine for introducing the bill and hosting the hearing today, and thank you to the witnesses.

## PREPARED STATEMENT OF OLIVIA A. GOLDEN

Senator DeWine, Members of the Committee, I am pleased to appear before the Committee today to discuss the very important issue of assuring the safety and well being of children who have been abused or neglected. Perhaps no issue is more important to the future of our country than assuring that children—all children—grow up in families where they are safe, healthy, nurtured and loved.

I commend you for holding today's hearing and for the commitment and determination with which you have pursued the safety of our children. Many of us share your concerns about the ability of our often overburdened child welfare programs to protect the safety and well-being of our nation's most vulnerable children. This Administration, in close consultation with state and community leaders, has taken numerous steps to strengthen those systems over the past several years as we have strived to ensure that:

- Every decision made is in the child's best interest; and
- The focus of child welfare services is on securing a safe and permanent home environment for the child.

Much remains to be accomplished, however, and we hope to work with you and your colleagues in the 106th Congress to take further steps to better protect the safety of our nation's most vulnerable children.

AN OVERVIEW OF THE CHILDREN IN THE CHILD WELFARE SYSTEM

Child abuse and neglect is a tragedy of growing proportions. The States report that in 1994 investigations by child protective services (CPS) agencies confirmed that over 1 million children were victims of neglect or abuse, an increase of 27 percent over the number of children who were found to be victims in 1990. Nearly half of the children abused or neglected were 6 years old or younger, while more than a quarter were 3 years old or younger. In recent years, the number of children in foster care has also increased to more than 480,000 children. And, although approximately 20,000 foster care children are adopted each year, the number has failed to keep pace with the increasing need.

Furthermore, there is evidence that the number of abused and neglected children may be even higher than what is reported through official CPS statistics. A study released by the Department of Health and Human Services in September estimated that the total number of abused and neglected children (including children who were not investigated by CPS agencies) grew from 1.4 million in 1986 to over 2.8 million in 1993. During the same period, the study estimated that the number of children who were seriously injured quadrupled from about 143,000 to nearly 570,000.

While there is no one single effective response to child abuse and neglect, ensuring the subsequent safety of these children must be our priority. To do so requires a continuum of effective services, including:

- Community-based prevention and family resource programs that support adults in their roles as parents and that help resolve problems before they can lead to children being abused or neglected;
- Foster care services that provide a temporary safe home for children, as well as services to their families, while parents work to resolve crises in their lives and agencies and the courts decide whether the parents can care for their children safely;
- Adoption and guardianship opportunities for children for whom reunification is not possible and/or whose parents' rights to custody have been terminated and who need permanent homes to begin again to establish strong family bonds; and
- Family preservation services for families that have problems, but that can be safely strengthened and kept together or reunified through the provision of sometimes intensive, but time-limited services.

It must be emphasized again that while a continuum of services is needed to meet the varying needs of children and families, not every family can be preserved. In our implementation of the Family Preservation and Family Support program, for which final regulations have just been issued, we have emphasized that these services are clearly not appropriate when children cannot be safe in their own homes. For these children alternative paths to permanency must be found.

RESPONDING TO THE NEEDS OF CHILDREN AND FAMILIES

There is a growing consensus that to reform the child welfare system we need to:

- Promote community-based prevention and early intervention efforts;
- Increase the focus on permanency and timely decision-making; and
- Ensure real accountability by focusing on the goals of safety, permanency and well-being.

In the past several years we have made significant strides in each of these areas.

COMMUNITY-BASED PREVENTION AND EARLY INTERVENTION

The Clinton Administration has made significant progress in developing community-based networks of support for families. We are working to bring whole communities together to support children and families. In our implementation of the Family Preservation and Family Support Program, for example, we have encouraged States to bring to the table community leaders, professionals from the many different agencies that support families, and families themselves, in order to plan support services that prevent child abuse, strengthen families, and prevent family crisis. At the same time, we have combined planning requirements and simplified paperwork for States, so they can really concentrate on solving child abuse and neglect.

Today, every State in the country is developing or expanding services to assist families before problems become severe. They are making these services accessible by providing them in neighborhoods and communities where families live. Further-

more, by developing community-based strategies they are ensuring that the whole community shares in the responsibility for keeping children safe.

The Family Preservation and Support Program fosters preventive services that can help keep children from ever suffering abuse or neglect. In addition, by expanding services under the program, States are better able to make reasonable efforts to prevent the unnecessary removal of children and to enable children to safely return home from placement when possible. However, it is important to note that the Federal law regarding reasonable efforts does not require States to provide family preservation or family reunification services for all children.

PERMANENCY AND TIMELY DECISION-MAKING

Every child needs a permanent, loving home. For children who are constantly developing both physically and emotionally, every day and every month count. For that reason, when a child must be removed from his own home because of abuse or neglect, it is critical that at every point decisions about the child's future be made promptly and in a way that helps the child move towards a safe, nurturing, permanent home.

The courts, working in conjunction with State child welfare agencies, play a critical role in decision-making for abused and neglected children. Through the State Court Improvement Program, authorized along with the Family Preservation and Family Support Program, State courts are receiving $10 million annually to work with State agencies and others to assess existing laws, policies and practices and identify areas in need of reform. The goal of this work is to establish an agenda for improving the quality and timeliness of decisions regarding the placement of children, termination of parental rights and other decisions that greatly affect children's safety and permanency. Most States have completed their assessments and are now moving forward to implement needed changes. To support this work, we have brought together foster care and adoption managers with court personnel in order to develop strategies to improve permanency for children.

In addition, the recent reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA) helps make the connection between child abuse and neglect intervention and permanency. The law adds new provisions that require States to certify that:

- They do not require the reunification of surviving children with a parent who has been convicted of a felony assault on a child or the murder or voluntary manslaughter of another child in the family; and
- They have laws making a conviction for any of the above mentioned crimes grounds for terminating parental rights.

The CAPTA reauthorization bill also requires that States provider expedited termination of parental rights for abandoned infants. We thank this committee for its leadership in sponsoring the reauthorization of CAPTA with its important emphasis on child abuse prevention and intervention. We will be working with the States to implement the new provisions expeditiously.

Another area in which we have been working to ensure permanency is adoption. As you know, the President signed into law the Small Business Job Protection Act of 1996 which provides a tax credit to families adopting children, as well as the Family and Medical Leave Act, which allows parents to take time off upon the adoption of a child.

We are also working with States to ensure that they make full and effective use of the Adoption Assistance program, which provides critical economic support to families who adopt children with special needs. This program promotes adoption of children who often wait longer to find homes and whose disabilities or other needs cause them to require large medical or other expenses. Since the beginning of the Clinton Administration, the number of children for whom Federal adoption subsidies are provided has increased by 60 percent.

Through discretionary grants we have supported the development of successful models for recruiting adoptive families, providing post-legal adoption services and supporting parent groups. Several grantees are focusing attention on the development of expedited methods to provide permanent living arrangements for children through voluntary relinquishment of parental rights and family mediation strategies that help to find homes for children within their extended families.

We have been working with States to ensure full implementation of the inter-ethnic adoption provisions adopted by this committee. Those provisions seek to decrease the length of time that children wait to be adopted by preventing discrimination in the placement of children on the basis of race, color, or national origin; and by in-

creasing the identification and recruitment of foster and adoptive parents who can meet the children's needs.

Finally, for some children for whom adoption may not be an appropriate or available service, we are exploring other means to permanency, such as assisted guardianship efforts being piloted in several States. This arrangement allows a child unlikely to be adopted to remain in a legally sanctioned relationship with relatives or foster parents.

FOCUSING ON SAFETY, PERMANENCE AND WELL-BEING

Underlying all our work in child welfare is a significant focus on the outcomes of child welfare services. It is critical that attention be focused on what really happens to children, not only on whether public agencies adhered to procedures and completed paperwork. We have been consulting with States and other experts in the field to revise our approach to reviewing State child welfare programs to reflect this focus on results. Through our innovative monitoring strategy, we are working with States to improve their performance in keeping children safe, securing permanent families and promoting children's development. By combining a meaningful monitoring process with the provision of focused technical assistance, there is great potential to improve the operation of child welfare services.

We are also working to ensure that at both the State and the national levels we have the infrastructure needed to support a focus on results. Through the Statewide Automated Child Welfare Information System (SACWIS) initiative, we are providing much needed leadership and financial support to encourage the development of modern, integrated systems that can both provide data needed to track outcomes for children and support frontline workers. At the national level we are moving forward in the implementation of the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). These efforts already are yielding more extensive and reliable data on children in the child welfare system than we have ever had in the past.

CONCLUSION

There is much work to be done to improve the well-being of children. By continuing to work together I believe that we can build on the important work we have begun and move forward to ensure the well-being of America's most vulnerable children.

STATEMENT OF THE CHILD WELFARE LEAGUE OF AMERICA

The Child Welfare League of America (CWLA) and our 900-member agencies across the United States and Canada working to improve conditions for children and families in crisis and at risk commend this committee's interest in strengthening the federal commitment to protect children.

"REASONABLE EFFORTS": WHAT THEY ARE; WHAT THEY ARE NOT

The Adoption Assistance and Child Welfare Act of 1980 requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If children's safety is jeopardized and they have to be separated from their families, efforts must be made to secure permanence for children either by returning them safely with their families or finding them another home that is safe, loving and stable.

CWLA continues to support the principles contained in P.L. 96-272. The law's emphasis on making reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is central to providing real assistance to troubled families and their children. "Reasonable efforts" are essential to good practice and a tool for achieving success for children and for improving the child welfare system.

"Reasonable efforts" became part of P.L. 96-272 because at that time, foster care was virtually the only option available and there was recognition that alternatives were needed. Placing children in an overwhelmed, under-serviced foster care system was not then and is not now conducive to positive outcomes for children. In fact, there were many instances then, as now, of children being removed unnecessarily from families. It is important to recognize that children almost always are traumatized by removal from their own family.

P.L. 96-272 contains procedures and fiscal incentives, albeit inadequate, to meet the goals of protection, permanence for children and family support:


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- Provision of preplacement and post placement services to keep children safely in their own homes or reunite them with their families as soon as it can be done safely.
- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.
- Increased support for adoption, including the establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs.

"Reasonable efforts" affirmed the importance of family for children. In many jurisdictions across the country, progress has been made in introducing family focused, child centered services in response to abuse and neglect; thousands of children have been able to remain safely at home or safely returned to their homes after being placed in out-of-home care.

The reasonable efforts principle has had a positive impact overall and has contributed to a number of improvements in the child welfare system (Reasonable Efforts Advisory Panel, 1995):

- a reduction in the amount of time children spend in out-of-home care
- an overall decrease in the number of placements each child experiences
- more goal-oriented planning for children and families
- expansion of needed services
- better family preservation practices, and
- greater emphasis on decision-making that takes into consideration the unique circumstances of every child and family.

Despite improvements and progress, the nation's collective response to abused, neglected and abandoned children is failing to provide both protection and appropriate living arrangements for many children. There are many reasons for this, not the least of which is the tripling in the number of children reported abused and neglected since 1980 and the failure of state, federal and local budgets to keep pace with this rise.

Many children are removed from their families prematurely without reasonable efforts having been made. Some are not removed quickly enough. Many unnecessarily remain in foster care because of inadequate reunification efforts. Other children are reunified but without adequate follow-up services to their families, resulting in re-abuse and removal once more. Some children and youth are placed in facilities appropriate to their needs, others are placed in programs that are too restrictive or not restrictive enough. For some children, known to be living in dangerous or threatening conditions, little or nothing is being done. High staff turnover rates, low pay, inadequate training, inadequate supervision, etc., lead to poor casework practice in many cases, despite good intentions.

This is not to say that one form of intervention is necessarily better than another; placement should be based solely on the child's needs with some requiring more intensive intervention than others. All of these services are valuable. The issue is which ones are appropriate to the child's needs and family circumstances. In the first instance, the state must examine in good faith whether a child can, with proper support, safely remain at home.

A great deal of confusion and lack of clarity have occurred because the U.S. Department of Health and Human Services has never issued formal regulations and guidance. Without that guidance, states have had a lot of room to interpret the provision and to flounder.

The "reasonable efforts" clause does not, however, mandate unreasonable efforts. Nor does it support family preservation or family reunification at all costs. All decisions need to be guided by sound practice and good judgment of all involved on a case by case basis.

There are certain factors that are fundamental to all effective social services for children:

- The first responsibility is to attend to a child's safety and protection. For some children and families, family preservation services and family reunification services are not indicated and should not, in fact, be pursued. Other families, perhaps as many as 80 percent of those who come to the attention of the child protection system, can be helped to gain the skills they need to live together safely or to come to another resolution that benefits the child, including placement with another family or in another setting.

- Whenever it can be done safely, it is important to strengthen family ties, keeping children connected to their family of origin. It is vital for all people, but especially for children, to be part of a family. Roots are important to children. "Where do I come from?" "Where do I belong?" are questions that all children and youth ask. As a matter of fact, many troubled adults are still struggling with this question.

- Children need permanent living arrangements. They do not do well when they are moved from place to place with no sense of the past or the future. Children need legal protection as part of their own families, or through adoption.

Reasonable efforts remain key to permanency planning. There is consensus that "these efforts, however, are to be pursued only when consistent with a child's health and safety. The biological family is to be the placement of choice, provided the family responds to help and will be able to provide proper care within a reasonable time after state intervention." (Reasonable Efforts Advisory Panel, 1996)

THE FAMILY WORK INVOLVED IN REASONABLE EFFORTS CAN IMPROVE OUTCOMES

Research in child welfare, children's mental health, and child development all point to more positive outcomes for children when parents are involved (Dartington Social Research Group, 1996; Langsdale, 1996; Pine, Warsh and Maluccio, 1993; Wittaker, 1981).

- When a child can remain safely at home, supportive and crisis services can help to stabilize the family and improve skills and resources so that the child can be spared the trauma of having to leave home and community.

*Glenda and John, young, first-time parents, were afraid that they would permanently lose custody of their infant son after he was hurt falling from his father's arms in the shower. When John was charged with child abuse, the court ordered the couple to take part in a home visiting program, participate in counseling and parenting classes. The home visitor scheduled twice-weekly visits so John could learn to bathe, feed, clothe, and play with his son safely. The couple gained confidence and skill in parenting, and were helped to form a positive and supportive relationship with Glenda's parents, with whom they were living and who had temporary custody of young Johnny. The couple have since regained custody of their young son and they stay in touch with the home visitor to report the latest milestones in Johnny's development.*

- In-home social services, by their very nature, are "up-close and personal." By engaging the family and spending time in the home, there is increased opportunity for observing abuse and neglect than with standard child protective services. Thus, when families, who on the surface appear to be "low risk," present more serious problems, there are professionals already involved who can respond in an appropriate and timely manner and ensure child safety.

*Family support and family preservation workers frequently report that, by spending "real time" with families in their homes and communities, they are able to learn about and observe many serious problems that may be present, including sexual abuse and domestic violence. Because they know more about the family, and have formed a relationship with at least one care taking adult, they are able to mobilize the family to develop a protective plan for the child which may include moving the non offending adult and children to a safe place, removing the adult responsible for the abuse, or removing the child temporarily or permanently.*

- When a child cannot remain safely at home, parental and family involvement is key to either a successful reunification or another permanent resolution for the child. For example, according to one of our providers of services to abused children and their families,

*David, an 11-year old boy who had been in residential treatment for several years because his destructive behavior suddenly began to make dramatic progress when it was learned that his birth father, with whom he had had little contact, was eager to build a father-son relationship. Over a period of months, with much support and assistance from the worker, David and his father learned to know one another and live together. David's dad received coaching and guidance on parenting. David learned through many home visits, how to get along in a family and with peers in the community. Now David is at home with his dad.*

- When reunification is not possible, working with the family often can lead to an optimal resolution for the child, through adoption, guardianship, or long-term care with relatives. By working with the parents and other family mem-


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here, the agency can help them to find a caring and permanent solution for the child.

*Debbie, a 7 year-old came to live with the Hart foster family because she has been abused and neglected and as a result of her serious acting out behaviors in school. Debbie's mother, Joanne, was concerned about her daughter but unable to break away from a live-in boyfriend who was physically abusive with Debbie. Through supportive counseling and a positive and supportive relationship with Debbie's foster parents, Joanne was able to come to terms with the situation. She agreed to voluntarily release Debbie for adoption, and worked with the counselor to arrive at a visitation and contact agreement with the Harts, who subsequently adopted Debbie. Now Debbie is at home with her adoptive family, June and Ray Hart, and she is able to have contact with her birth mother. Her acting out behavior has disappeared and she is performing at grade level for the first time.*

When, in the process of working intensively with the family, it is determined that staying together or reuniting the family is not in the child's best interest, the agency is far more prepared to demonstrate to the court that the parents are unable or unwilling to care for their children and to develop and implement a permanent plan for the child.

When it is determined that a child cannot be reared by the birth parents, steps toward adoption should proceed without delay. In still too many instances, that, unfortunately, is easier said than done.

### MAKING REASONABLE EFFORTS WORK

The following elements must be in place in order for "reasonable efforts" to enhance opportunities for successful child outcomes and to serve as a tool for improved practice and decision making:

Written federal guidance by Department of Health and Human Services (DHHS) to clarify for states what is meant by "reasonable efforts," including:

- a core list of services and supports that a state must develop as evidence of its capacity to make reasonable efforts;
- when reasonable efforts are appropriate and those instances when they are not required—i.e., that they are not required when they compromise the safety of the child and that reunification efforts are not necessary, or reasonable, when the chances of family reunification are remote; and
- standards of performance for state child welfare systems that will provide a meaningful and predictable role for DHHS in its oversight of state agencies receiving federal funds for child welfare services. States vary widely in their performance and capacities. National standards should be adopted to improve practice and outcomes. CWLA for many years has been the principal national agency responsible for developing child welfare standards. Our 11 volumes of standards are recognized by child welfare professionals throughout the world as constituting "best practice" standards. Unfortunately, there remains a wide gap between the excellence contained in these standards and what actually occurs in practice.

Federal monitoring of state reasonable efforts. Federally conducted program audits are an important means of ensuring that states are working conscientiously to both keep children safe, to keep them connected to their families, and to achieve permanence for children. Legal actions have found that more than 30 states have failed in many ways to properly care for children, including making reasonable efforts when appropriate.

Intensive preventive services. Communities providing intensive preventive services have been especially successful with reasonable efforts. Some have had particular success with speedy adoptions and other permanent placements for children unable to return home. Federal encouragement of family preservation and support efforts is important to reinforce these state and community efforts (Reasonable Efforts Advisory Panel). To carry out these efforts, it is imperative to bring to bear adequate resources for staffing, training, and agency coordination to make sure the job can get done.

Interagency collaboration and support. Successful reasonable efforts, like effective child welfare services, cannot be implemented by the public agency alone. All service providers, the courts, and the legal community must work together to ensure that children and their families are receiving appropriate services and to enable timely and sound decision making in their behalf. Court assessment and improvement is not only vital, but unlikely to occur in any widespread manner, without federal funding and encouragement. (Reasonable Efforts Advisory Panel, 1995)

Informed and consistent court involvement. Courts should continue to make determinations about agency reasonable efforts to preserve and reunify families. (Reasonable Efforts Advisory Panel, 1995). Court effectiveness depends upon proper judicial training, reasonable court caseloads, and a genuine interest and commitment to child and family work. It also is imperative that judges be assigned to regular child welfare caseloads as opposed to having a revolving assignments which prevent following a case over time.

Training, protocols, and supervision of agency workers to

- conduct accurate assessements regarding child safety, family capacity and motivation, and family strengths and resources;
- intervene effectively when safety is a concern; develop an appropriate service plan that meets the needs of the child and family; engage the family in making the needed changes;
- obtain or develop needed resources;
- document progress and problems;
- work effectively with legal counsel, the courts, and with other service agencies to move the case to an optimal resolution for the child.

Reduced caseloads so that workers have the opportunity to make reasonable efforts and do best practice in their work with children and families.

These are the basics of good casework practice and without them there will never be sufficient protection for children at risk of harm. These elements are essential for increased safety and success for children. With more than three million children reported abused or neglected, "reasonable efforts" are an essential tool if children are to remain safely with their families. The alternative is to bring many more thousands of children unnecessarily into care with all the associated trauma and costs that this option generates.

### CHEMICAL DEPENDENCY AND THE CHILD ABUSE AND NEGLECT

Chemical dependency is ravaging families across the United States and is exacting a devastating toll on the most innocent and vulnerable members of families—young children and youth. Each day thousands of young people must compete with alcohol and other drugs for their parent's attention and at times, their basic survival. Increased alcohol and substance abuse is the most commonly cited factor contributing to increasing reports of child abuse and neglect.

Meanwhile, the already overwhelmed child welfare system, charged with the responsibility of protecting these children from the hazards of life in a chemically involved family is struggling to meet the needs of these families. The surge of referrals to child protective services coupled with the complex needs of children and youth from families abusing alcohol and other drugs has nearly crippled the system designed to protect and care for these children.

Child abuse and neglect can be prevented if we begin to address the problem of chemical dependency. Efforts to support children within their chemically dependent families must attempt to address chemical dependency in the family while meeting the safety needs of the children. Existing substance and alcohol abuse treatment and prevention resources should be expanded and focused to support services and programs targeted to vulnerable children and their families. All parents coming to the attention of the child welfare system should receive services and supports to prevent unnecessary separation from their children. They should also receive services that support ongoing, safe, healthy relationships with their children and facilitate family reunification, when appropriate.

In the last decade we have learned in specific detail what good and effective "reasonable efforts" look like. There is a great need for DHHS to catalog those experiences and transmit them to all jurisdictions so they can be implemented properly. It is equally important that benchmarks of performance be set in each state so that all parties have clear and appropriate expectations and responsibilities and make the necessary investments to keep children safe. With current and increasing demands, we need a system with all the options and we need them to work well. CWLA looks forward to working with this Committee to make sure that happens.

TESTIMONY OF

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before the

United States Senate Labor and Human Resources Committee

Hearing on

"Improving the Well-Being of Abused and Neglected Children"

Wednesday, November 20, 1996

Senator DeWine and Members of the Committee:

I am honored by the opportunity to appear before you today as you consider how the Federal Government can act to improve the well-being of abused and neglected children.

The writer Norman McLean said that "It may not be a fixed rule, but it is certainly a convention of public tragedy that it must repeat itself if it is to make a cry loud enough for something good to come of it."

With regard to the problem of child maltreatment in the United States, there are regular and repeated public tragedies and loud cries.

Unfortunately, with only a few exceptions, little good has come from these terrible public tragedies.

I think it fair to say that most people who know about the child welfare and child protective system in this country know that this system is in crisis. The crisis is more than simply a failure of one part of the system. As the U.S. Advisory Board on Child Abuse and Neglect said six years ago, this is not a failure of a single element of the system, but a chronic and critical multiple organ failure.

The failure is not the result of an enormous increase in the number of reported cases of child maltreatment, as reported by the Secretary of the Department of Health and Human Services in September (an increase that many researchers do not see as a reflection of a real increase in child abuse and neglect). This is not a crisis caused solely by too few child protective workers responding to an increased number of reports. This is not a failure caused solely by having too few resources available to public and private child welfare agencies.

The crisis is a failure of inappropriate goals as well as a well-intended, but improperly implemented Federal law, the Adoption Assistance and Child Welfare Act of 1980 (PL 96-272).

The current crisis of the child welfare and child protective system and our inability to help get vulnerable children out of harm's way, is the result of:

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(1) The overselling of "intensive family preservation services" as a cost-effective and safe means of protecting children. I have served for the past two years on the National Research Council's Panel on Assessing Family Violence Interventions. We have carefully examined the entire literature that evaluates the effectiveness of intensive family preservation services. We have carefully examined the results of studies that meet the normal standards of scientific evidence in this field. Although there were a number of people on the panel who believed that intensive family preservation services could preserve families and protect children, we have yet to find scientific research that could support such a claim. While intensive family preservation services might be effective for some families under certain conditions, the case can not be made for its overall effectiveness.

Our inability to find evidence for the effectiveness of intensive family preservation services would not be so problematic if foundations, agency directors, child advocacy groups, and even administrators in the Department of Health and Human Services were not effusively touting the successes of intensive family preservation services.

(2) The Adoption Assistance and Child Welfare Act of 1980 that mandates states to make "reasonable efforts" to keep children with their biological parents. This law and this phrase were well-intended and designed to solve the problem of children inappropriately languishing in foster care. The law, however, never clearly defined the terms "reasonable" or "efforts."

We have 16 years experience with this law and it is quite clear that child protective workers often misunderstand and misapply the law. I have heard caseworkers, lawyers, and judges state very clearly that their mandate is to make every possible effort to keep children with their biological caretakers.

(3) The belief that children always do best when raised by their biological caregivers. Just last week I read a quote from an administrator from the Missouri Department of Social Services who cited research that said that children do best when left with their biological caretakers. Indeed, this is true so long as their caretakers do not abuse and maltreat them. But children who are abused and neglected do not do best when they are left with or are reunited with the caretakers who maltreated them. In fact, compared to children left with caretakers who maltreat them, children placed into foster care, children who are adopted, and even children raised in orphanages generally do better.

(4) The belief in the fiction that one can actually balance family preservation and child safety. Such a balancing act almost inevitably ends up tilting in favor of parents and places many children at risk. There are more than 1,200 children killed by their parents or caretakers each year in the United States, and nearly half of these children are killed after they or their parents have come to the attention of child welfare agencies. Tens of thousands, if not hundreds of thousands of children are re-abused each year after they or their parents have been identified by child welfare agencies.

(5) The belief that it is easy to change parents who maltreat their children. Child protective agencies often confuse compliance with change and fail to recognize the process by which people change. Just because someone is reported for abuse and is threatened with the loss of their children, does not mean they will change their behavior. Just because someone is provided with state-of-the-art interventions and services does not mean they will change their behavior.

Congress has the means and the opportunity to make some good come from the public tragedies of Elisa Izquierdo in New York City,



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Baby Emily in Connecticut, Joseph Wallace in Chicago, Christine Lambert and Natalie Ashton in Baltimore, a 15 month old boy I called David Edwards in my book, THE BOOK OF DAVID, and hundreds more children each year.

The time has come to revisit The Adoption Assistance and Child welfare Act of 1980 and to spell out what is "reasonable" and what are "efforts." The time has come to legislate time limits for reunification efforts and to recognize that some individuals are so dangerous that they should not be given a second chance to harm their children. The two words, "reasonable efforts" must be defined or changed so that children, their welfare and development come first.

Congress can also work with the administration to develop a program of research and demonstration that examines what interventions work for which families under what conditions. If any good is to come from public tragedies, it can not come if we guide our social policy and our child welfare system with homilies, canards, and overmarketed "one size fits all" solutions.

I have also provided committee staff with a longer more complete analysis of child protection social policy.

Thank you for the opportunity to appear before you.

TESTIMONY OF
MARCIE FULLBRIGHT

Senator DeWine, members of the Committee, I certainly appreciate the opportunity to be here today to testify on the subject of improving our work on behalf of children and on the issue of "reasonable efforts."

Over the last twenty years, social researchers have investigated the plight of our children being raised in the foster care system. In the early eighties the condition of these children incurred such attention that federal legislation was incited to end "foster care drift" and provide our children with permanence. In Ohio, state legislators responded to the needs of these children with the introduction of HB89. These laws were written with good reason. By good people with good ideas and good intentions. Unfortunately, as years have passed, the intent of these good laws has been somewhat forgotten. We have forgotten that the needs of the children, not the needs of the parents, or the needs of the agencies, or the needs of the courts, were at the heart of these laws. We have forgotten that our children need permanence and that all of our efforts need to address this need.

The very laws which intended for us not to forget, have aided in our forgetfulness. The "loose" wording of the law and the failure to specify meaning, have left the intent of the law victim to some very "loose" interpretations of intent. One example is the issue of "reasonable efforts." With room for interpretation, reasonable efforts has become a series of petty questions. How many phone calls are enough? How long is long enough? How many chances are enough? As an example, I would like to tell you the story of a brother and sister.

In 1993 a boy, age 3 and his sister, age 2 came into the emergency care of the agency. Both children had been severely battered. The girl who had been beaten, burned, and had had her front teeth knocked out, entered foster care three days after her brother, as she needed to remain hospitalized to heal her injuries. When the children entered foster care, they could not talk. They hit and spit, and fought each other over every morsel of food and attention. They could not be placed together because of the rage to both. The initial clinical evaluations of the children described them as "animalistic."

Their mother denied battering the children or knowing who had. She stated she wanted reunification. The mother was criminally charged, something rarely done. Knowing that we had to make "reasonable efforts" to reunify the family, we developed a



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case plan giving her tasks that we said, if completed, could enable her to regain custody of her children. Although the mother did as her defense attorney advised, she failed to follow the agency's case plan. Even after visitation was suspended, the agency had to continue to make reasonable efforts to work with mother toward reunification. At mother's criminal trial, she calmly told of beating, burning, and torturing her children. She expressed no remorse. In 1994 she began serving a five to fifteen year sentence in prison.

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When the agency finally filed for permanent custody of the children, both parents were appointed attorneys. At initial hearings, mother's attorney identified that the mother had taken parenting classes in prison and now would certainly be a better mother. In addition, the mother has been a model prisoner and would definitely be eligible for an early parole. The attorney argued that it was "reasonable" to give the mother time to get out of prison. The father's attorney assured the court that his client who had not seen the children since they entered foster care, would be a good parent and that he definitely wanted his children. The attorney argued that it was "reasonable to give the father more time to get to know his children and show that he could care for them.

In total, the agency went to court six times during 1995 in our efforts to obtain permanent custody of the children. Finally, on 4-16-96, the agency was awarded permanent custody of these two children, now 6 and 7.

In this case, the needs of the children were secondary to the "rights" of the parents. The mother was not available to parent, even if she had been able to parent. Yet due to the attorney's and court's interpretation of "reasonable efforts," this fact was overlooked. The father made no attempt to parent. Yet due to the attorney's and court's interpretation of "reasonable efforts," his lack of effort was overlooked.

Unfortunately, these children's story is not uncommon. I know that each time I enter a courtroom and the request of the agency is not agreed to by another party, the likelihood is that the hearing will be continued. It will be put off to some distant date and the agency will be required to continue making "reasonable efforts" to reunify the family. I know from experience that in my county, contested trials take an enormous amount of time to get on the docket.

In one of my cases, the agency filed for permanent custody of a sibling group of six in January 1996. Our two day trial in July 1996 was continued and we will not be going to trial again until March of 1997. Yet, until that time, we are required to try and make reasonable efforts to work with the parents and extended family. The mother has significant mental health problems and will not initiate contact with us; we always have to pursue her and the father. The court thinks this expectation of the agency is "reasonable." The grandparents who want one of the children have submitted to psychological evaluations. The evaluations state that they were in such denial of their abuse of the children that the testing was invalid. The psychologist states that the grandparents need another evaluation, conducted by another party. The court will find this "reasonable" and will insist that the agency schedule and pay for additional evaluations of the grandparents.

In this case, many efforts have been made, and no additional efforts are reasonable. The parents, even with intensive in-home services could not care for the children. They could not, on their own meet even the most basic of needs. Mother's mental health problems, domestic violence, and an overall inability on the part of the parents to control the children's behavior without resorting to physical abuse precipitated the children's entry into foster care. Likewise, any additional efforts to work with the grandparents are also unreasonable. The girls have all reported being sexually abused by the grandfather over an extended period of time. Even so, the agency will continue to make "reasonable efforts" to work with the parents and grandparents, trying to make them comply with a case plan they do not agree with, and identifying reunification as the goal for the children. These efforts will continue until we go to trial in March.

My job is not impossible to do, but sometimes, it is impossible to do well. The very laws which were designed to help me do my job are sometimes the biggest barriers. My job would be easier if the wording of the law reinforced the intent of the law. It would be easier if the law said: "Our children are our most valuable asset and they deserve permanence. As evidence of our belief in the value of our children, our 'reasonable efforts' to provide them with permanence shall begin the day they are identified to be at risk of being abused, neglected, or dependent, and will continue until they are insured a safe and secure childhood. That the overall well-being of our children will be placed above the rights or needs of any others."



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Until we place the health and well-being of our children first, we are going to continue to forget that they need what all people need: security, consistency, a feeling of being wanted, and a place to be at home. I ask that you change the law and make "reasonable efforts" address the needs of our children.

**PREPARED STATEMENT OF HELEN LEONHART-JONES**

Senator DeWine and members of the Committee, thank you for the opportunity to address you today on the issue of improving the well-being of abused and neglected children. I am Helen Jones, and I am the Executive Director of Montgomery County Children Services, the public child protection agency in the Dayton, Ohio area.

There are 142,000 children in my county. Last year, my agency received more than 28,000 referrals of abuse, neglect and dependency. We assisted 7,286 families and 17,664 children in crisis. More than 1000 children in the protective custody of Montgomery County Children Services were in foster care in 1995. As I sit here with you today, I am personally responsible for 1051 children in substitute care, 62 of whom are waiting for adoptive families.

I would ask you to take just a moment to imagine what it must feel like to be escorted from the only home you know, clutching a green garbage bag which contains the only meager belongings you had time to collect before being ushered into a waiting car and driven to a stranger's home. And imagine still, how even more devastating that must be for the youngster who finds himself or herself repeating that scene several times over in the course of a child's short lifetime.

I ask you to visualize this, because this scenario is reality for hundreds of thousands of American children on any given day.

Certainly, I do not want to suggest that children should remain in homes where they cannot depend upon their parent or caregiver to protect them. But we must recognize that the decision to remove a child from his or her home of origin is a decision to further "damage" that child in some way. Consequently, it must be done planfully and sensitively with the utmost concern for the child's sense of time, urgency and need.

I should also mention that I am the President of the Board of the National Court Appointed Special Advocate Association (NCASAA). We train community volunteers to serve as guardians ad litem for abused and neglected children in court. Our advocacy is focused on "the best interests of the child", separate and apart from the other parties to the case. Indeed, we sometimes find ourselves at odds with the other parties, but our emphasis never deters from an utmost concern for the child, and as I noted above, his or her sense of urgency.

I found some recent statistics to be of interest. In its September 30, 1996 issue, U.S. News and World Report shared some statistics based upon data from HHS that talked about the numbers of children who are "suffering amid the breakdown of families and the abuse of drugs and alcohol". They showed that children of single families have a 77% greater risk of being harmed by physical abuse and an 80% greater risk of suffering serious injuries than kids living with two parents. It

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went on to say that birth parents account for 72% of the physical abuse and 81% of emotional abuse. Ladies and gentlemen, we live in a country where more than three million children a year are being abused and neglected by the people who should be ensuring their safety!

These children are then being subjected to a lifetime of misery as a result of this maltreatment.

In 1987, I left the private sector to go to work for Montgomery County Juvenile Court to implement its CASA Program. One of the first cases in which I became involved was the case of three little boys who were temporarily removed from the custody of their substance abusing mother. They were placed in two different foster homes (the two younger boys were together in one foster home), and the judge granted visitation rights to their mother who showed up sporadically at best. She was able to rehabilitate just enough for the court to grant that the boys be returned to her, only to "fall off the wagon" and to lose them again six months later. This cycle was repeated continually for eight years until last December when one of my first official acts in my new appointment to the position at Children Services, was to sign the papers to agree to their adoption.

It took eight years from the start of this case to the finish! The oldest boy was five when he first came into care. He was thirteen when I signed the adoption papers. Of course, I'm keeping my fingers crossed, hoping that this adoption "takes" and doesn't end up disrupting and forcing these three boys back into the system.

The Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If a child's safety is jeopardized, and they must be removed from their families, efforts must be made to secure permanence, for the child either through reunification with their own families or by finding them another home which is safe, nurturing and permanent.

Too often, children fall victim to foster care drift while the adults who are responsible for ensuring their care vacillate between returning them to marginal homes and terminating parental rights to free them for adoption. Often, by the time they are freed for adoption, they are no longer viewed as "adoptable."

Ohio, like many other states, including Florida, Iowa and others, recently changed its legislation to make it less bureaucratic to ensure the safety of children. The overriding concern which drove the legislative changes is that *safety* is the most important consideration for children at risk of abuse and neglect.



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With that in mind, Ohio has shortened the time frames in which to terminate parental rights and encourages agencies to study foster homes for the purposes of allowing them to adopt the children in their care.

This is not to suggest that Ohio's new law should become the federal standard. In fact, while many states have made changes, none has covered every aspect. However, the basic premise of ensuring the safety and stability of the child should not be lost, and the efforts to guarantee certain safeties should be replicated through out the country.

In "Backlash Against Family Preservation", Kathy Bonk notes:

> "Mandatory reporting laws, particularly by schools and hospitals, have resulted in important partnerships in many states working to identify the most serious cases. If as a society, we want to help abused and neglected children, then private citizens and the public sector, not just government agencies, must be engaged to help identify and stop severe cases, but not lose children in the process. Good quality and timely investigations of abuse is the first, and maybe, most important action that a child protection agency can take to ensure that children are safe and protected while helping families. And we can all agree that more and better training is needed to better detect abuse, to keep children safe and to help stabilize families."

Clearly, to improve the overall well-being of abused and neglected children, there must be a greater emphasis on child safety. Legislative changes which emphasize resources to supervise and train staff are critical.

There will be times when it is unquestionably in the child's best interest to provide the family with the requisite skills training and support services (and that doesn't necessarily mean dollars – though sometimes it might), to keep that child in the home or to return the child after a short period of time.

Conversely, when we recognize early on that reunification is *not* an option, legislation should not bind our ability to make an early decision which is consistent with the child's sense of time.

What would be most helpful from the legislature in making efforts to protect children would be clearer direction in terms of definitions/concepts in legislation, more diversity in resources and incentives.

The bottom line is, and always should be, keeping the issue of protecting children first and foremost in our advocacy efforts and ensuring their safety at all times.

I'll close by telling you what drives me to do this work.

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Six year-old Michael was the reason I made the decision to go to law school. Michael was a little boy with whom I worked in a social skills development program in Cincinnati, Ohio. He lived in the Over-the-Rhine neighborhood, which at one time was one of the poorest sections of Cincinnati. Now with gentrification, it is a desired area, close to downtown.

Michael's school was one of the schools where the District used to send disinterested teachers to live out their time until retirement. Many of the children came to school hungry, unkempt and in search of any type of adult nurturing, so it was sad that they were surrounded by so many teachers who were unable to meet their needs for attention.

Michael was a very bright child, but he expressed his intelligence in inappropriate ways, which drove his teacher to distraction and constantly got him thrown out of the classroom.

Michael's mother was a prostitute. His father had been her pimp. Michael had been removed twice in his young life and returned because once again, his parents minimally complied with their case plan. I share this to give you a sense of his sad entry into life. It is matched by his sad exit.

Michael died at the age of seven following a fall from a third story window. He had been at home, unsupervised, left alone with his three year-old brother.

Michael is the reason I went to law school to learn to advocate for children like him. He is also the reason I flew here today to thank you for your interest in the children like him, who have no voice to speak up for themselves, and who have to rely upon the grownups like us to "read their cues" and to ensure that other children don't die needlessly, because there weren't enough resources or opportunities in the system for professionals to do the job of making sure these children were in safe, nurturing and permanent homes.

We need to take the tough action now to say once and for all, there *are some parents for who all our best efforts will never be enough*.

We need to have clearly identified criteria which allows the professionals to say unequivocally that:

- Parents who murder or maim children,
- Parents who aggressively assault children,
- Parents with histories of violent criminal behavior or domestic violence,
- Parents who abandon children in life-threatening situations;
- Parents with long-term and chronic addictions which place children at risk and who have rejected treatment or relapsed after treatment,



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- Parents with long term and chronic conditions which place children at risk and who have refused treatment; and
- Parents who repeatedly withhold medical treatment or food when they have the means to provide same, will automatically trigger a petition which moves to quickly sever parental ties and free these children to loved, supervised and cared for by foster and adoptive parents who are willing to take on the responsibility for their upbringing.

Then, and only then, will I feel that my promise to Michael's memory has been fulfilled. Then, and only then, will all of us be able to go to bed at night, assured that the children of our global community have the ability to experience visions of sugar plums and not the ugly nightmares of abuse or neglect.

PREPARED STATEMENT OF PETER DIGRE

REASONABLE EFFORTS:
CHILD ABUSE, ADOPTION AND CHILD WELFARE POLICY

I. INTRODUCTION

Senator DeWine and members of the Committee, thank you for the opportunity to testify today on the subject of federal child abuse, adoptions and child welfare policy. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1995, responded to more than 170,000 reports of child abuse and neglect. My Department is the largest child protection agency in the country. Today and every day, I am personally responsible for the protection and care of more than 71,000 children. In addition to providing child protection services, my Department also is a full-service adoption agency. Each year, we are involved in the adoption of approximately 2,100 children.

I have 31 years of experience in administering state and local child protection programs in several of the most populous jurisdictions in the country.

In recognition of the importance of preserving families and in responding to the problem of numerous children remaining in the foster care system and growing up without legally permanent families, the Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) required child protection agencies to engage in "reasonable efforts" to prevent a child's removal from home after they were abused or neglected, and to enable the reunification of families once children had been removed. The momentum to provide "reasonable efforts" was greatly enhanced when OBRA 93 created a block grant of funds for "family preservation and support" under Title IV-B of the Social Security Act.

No one can fault the legitimacy or worthiness of the goal of preserving and reunifying families. Indeed, in California family reunification is successful approximately 78% of the time for infants or 84% of the time overall. However, we cannot ignore the fact that at least 22% of the time infants who are reunified with their families are subjected to new episodes of abuse, neglect or endangerment (see

Attachment I, Chart). Further, our Department of Children and Family Services' studies indicate that the likelihood of a child returning home declines precipitously the longer a child stays in foster care. For example, in 1995 only 5% of the children in foster care longer than 24 months were reunified.

In addition, the original problem of numerous children growing up without legally permanent families continues to grow unabated. Long-term foster care without adoption is not stable and not permanent. The Child Welfare Research Center at the University of California found that 83% of toddlers (ages 1-2 years) entering non-relative foster care had a change in foster parents within six years, and 62% had three or more foster homes (see Attachment II, Chart). Almost one out of three had five or more foster homes. Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day as the University of California found that in California, fully 30% of infants entering foster care were in long-term foster care (neither adopted nor reunified) after four years (see Attachment III, Chart).

Adoption, on the other hand, creates lifetime parents. It is commonly not understood how remarkable stable adoption is. In California, only an average of 14 finalized adoptions are set aside annually out of a potential pool of 15,000, a rate of less than .1% or one out of 1,000.

The final tragedy of children growing up without lifetime parents occurs when they grow up and leave foster care, in most states at age 18, and become fully independent without a family to rely on. This is nearly an impossible task, one that my 18 year-old daughter could not have achieved and one that I do not believe I could have achieved. Indeed, I am 52 years old and my mother still keeps a bedroom in her house for me. I will, therefore, never become homeless, but some studies indicate that as many as 45% of 18-year-olds who leave the foster care system do become homeless at some point.

Based on the above, I am not ready to abandon "reasonable efforts" or "family preservation", however, the law must be vastly strengthened to:

- emphasize that child safety is the first priority;
- emphasize legal permanency and concomitantly decrease the numbers of children growing up in long-term foster care;
- improve the life opportunities of those children who do grow up in foster care.
- correct problems created by PL 104-193

II. EMPHASIZE THAT CHILD SAFETY IS THE FIRST PRIORITY

The word "reasonable" is often read out of "reasonable efforts" creating a situation in which children are placed in danger and re-abused in the name of family preservation and reunification. In short, we too often engage in "futile efforts" which are inherently unreasonable and small children pay the price.

This can be corrected with a simple statement of legislative intent indicating that in all child welfare decision-making, our first priority is child safety. This should be reinforced in three specific ways:

1. Specifically state in the statute that "reasonable efforts" do not include efforts that place a child in danger;

2. Judges, hearing officers and child abuse workers must make specific statements of facts which indicate why they conclude that children will be safe in family preservation or reunification decision-making;

3. Lawyers and guardians ad litem who represent children must advocate only for decisions which are consistent with child safety. This clarifies a significant legal ambiguity since some lawyers assume that they must represent the wishes of the child client even if the child's wishes were incompatible with safety.

The OBRA 93 family preservation and support efforts deserve special attention. In Los Angeles and throughout California and the United States, they have unleashed commendable creativity in the development of networks to preserve and strengthen families. At the same time, too little attention has been paid to well-known and basic standards that would vastly improve child safety. We are left with a thousand pilot projects without a core program, making any definition of family preservation impossible.

The legislated state family preservation and support plan requirements should include specific standards, including 1) clarification that the first priority is always child safety, 2) careful risk assessment to exclude dangerous families, 3) a high level of in-home visitation to supervise children's safety, 4) a comprehensive range of services to increase families' capacities to protect their own children, and 5) partnerships with the community.

For example, in Los Angeles we have developed 28 Community Family Preservation Networks (CFPNs). Families with serious histories of violence or sexual assault are excluded unless the perpetrator can be removed. Community-based networks must visit each child in their home either four, eight or sixteen times a month depending on the intensity needed. Each CFPN must organize 23 key family supports, including drug treatment, housing, day care, transportation and jobs and other income supports, as well as the in-home visitation.

Our emphasis on community partnership both leverages existing resources on behalf of these families and builds a continuing community of support around them.

We have found that these high standards create the best possible outcomes:

- 85% of the time we are able to successfully preserve families in this program.

- During the first three years of our original twelve programs, 30% fewer children went into foster care in the communities they covered. The growth of

African-American children in foster care was stopped dead, even as other groups showed rapid growth.

- Despite the implementation of the family preservation programs, child deaths declined in Los Angeles County for four consecutive years, from 61 in 1991 to 39 in 1994.

Finally, the need for good standards for child safety applies to the whole child protection program and not only to family preservation and support. Consequently, enhanced Title IV-E state plan requirements should include:

- minimal standards for in-home visitation;
- forensic pediatric examination for physically and sexually abused children;
- regular pediatric care for foster children;
- a timely response and resolution for each allegation of abuse and neglect;
- background screening of alleged abusers and foster and relative caretakers, including criminal and abuse screening;
- risk assessment;
- training for foster parents, including relative caretakers and child abuse workers.

Our concerns in Los Angeles County about the need to emphasize child safety led us this past year to sponsoring a bill, authored by State Senator Hilda Solis, to amend California law to specifically entitle every child to be safe and protected from abuse and neglect, and to require that all parties in Juvenile Court proceedings be responsible for child safety. As simple as our proposal sounded, we struggled mightily to assure its passage. Our opposition came from attorneys who unfortunately believed that their primary and only responsibility is to represent the child's wishes, even when those wishes place the child at risk of further harm (see Attachment IV, SB 1516).

Support for this measure came from a wide array of child advocates, child protection agencies and community groups. It was a bi-partisan bill, authored by a Democrat and co-authored by a Republican. Our State's Attorney General and our County's Sheriff gave the bill their unconditional support.

I believe that what our experience with this proposal revealed is that not everyone who has a role in child protection accepts that child safety is their responsibility. As long as that is the case, children will be at risk. We must retain the positive gains we have seen thus far with reasonable efforts and family preservation, but we must strengthen the law to emphasize that child safety is our first priority.

III. EMPHASIZE LEGAL PERMANENCY

As indicated clearly above, foster care is tragically unstable while finalized adoptions are nearly completely stable. A child who is adopted has parents for his/her life. A child who grows up in foster care will probably have many caretakers and will not have any assurance of a family and home after he/she turns 18. Adoption must be vastly preferred to long-term foster care.

Congress can do the following to ensure that more children achieve legal permanency and that fewer enter long-term foster care.

1. Reject unreasonable efforts. Recognize in the statute that there are classes of parents for whom "reasonable efforts" and family preservation and reunification are or may be inherently unreasonable. These include:

   - parents who kill or maim children;
   - parents who aggressively sexually assault children;
   - parents with histories of violent criminal behavior;
   - parents who abandon children in life-threatening circumstances;
   - parents with long-term and chronic addictions.

   In such situations, it is usually futile and unreasonable to endanger children by making efforts to preserve or reunify their families. Children in these circumstances should have the right to a safe family for life by being adopted while they are still young.

2. Require reasonable efforts for legal permanency. Strangely, the concept of "reasonable efforts" applies only to preserving and reunifying families and does not address the compelling need of children to have permanent parents for life. It is imperative, and rather simple, to require states to make reasonable efforts to find adoptive homes for children without safe families.

Our second effort in our State Capitol this year was a measure that made sweeping advances in facilitating adoption, emphasized legal permanency and will decrease the numbers of children growing up in foster care. Largely written by the Youth Law Center of San Francisco and authored by Assembly Member Louis Caldera, this measure added to the situations in existing law where the juvenile court is not required to order that we provide services to reunify seriously damaged families. Specifically, the new situations include those where children have been willfully subjected to life-threatening abandonment; children whose siblings or half-siblings could not be successfully reunited with parents; children whose parents have been convicted of violent felonies; and children whose parents have extensive, abusive and chronic histories of drug and alcohol abuse and have failed or refused treatment. The measure also holds that placement of children in a preadoptive home, in and of

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itself, shall not be deemed a failure to provide or offer reasonable services to reunify. Finally, the bill does not permit children under the age of six years to remain in long-term care with foster parents unable or unwilling to adopt. This measure moved through both houses of our State Legislature with no opposition, testimony to the fact that the public and our Legislature are no longer willing to allow all reasonable efforts to be extended to parents at great cost to children's futures and lives. (See Attachment V, AB 2679)

## IV. IMPROVE THE LIFE CHANCES OF CHILDREN WHO GROW UP WITHOUT PERMANENT HOMES

Each year, thousands of youth who have grown up in foster care emancipate to independence without reliable and legally permanent families.

Many of these children face homelessness, many have highly incomplete educations and many will become involved in crime to support themselves. Since we did not provide permanent families for these children, we owe them the basic opportunity to succeed as adults. Congress should:

1. Declare national goals for children who must become independent after aging out of foster care.

   These goals should include:
   - a place to live;
   - opportunity to continue education;
   - life skills training;
   - employment or income;
   - access to health care;
   - adequate clothing;
   - availability of records, including educational history, driver's license, citizenship status, foster care history, health history;
   - ties to community mentors.

   The states' plans to achieve these goals should be incorporated in their Title IV-E plans.

2. Encourage states to develop employment, housing and scholarship opportunities for emancipating foster youth.

   States should be required in their IV-E plans to specify how they will target local, state, federal and private sector employment, housing and scholarships for higher education opportunities for the special population of emancipating foster youth.

   Some of the initiatives we are developing in Los Angeles include:

   - blending public and private housing programs and foundation resources to create 400 apartment beds for emancipated youth, spearheaded by a very substantial grant from the Weingart Foundation;

   - using the Job Training Partnership Act (JTPA) and the private sector to create jobs for all older foster youth. Targeted employment efforts should generate 2,000 jobs this year for older Department of Children and Family Services foster youth;

- encouraging local government and contractors to hire emancipating foster youth. My department has hired over 70 such youth with excellent results, including the use of 30 of them to be Emancipation Assistants to help younger children prepare for independence;

- encouraging blending private contributions with college, state and federal scholarships to enable emancipating foster youth to go to college. This year my department has requests from 500 of our 800 emancipating youth for college scholarship assistance, and we will be able to honor all of them, thanks to the generosity of our community.

These and other efforts would be enhanced if Congress would lower the age for participation in the Independent Living Program from 16 to 14 to allow us to engage youth earlier in preparation for this most difficult transition.

Our third State legislative effort involved a bill, also authored by Assembly Member Louis Caldera, which required our colleges and universities to evaluate their outreach to and retention of former foster youth, and to assure that these youth are identified and informed of existing Extended Opportunity Programs and Services. It authorized targeted outreach to foster youth in conjunction with public child welfare agencies and required the inclusion of at least one former foster youth on college advisory councils.

Although this bill did experience some opposition, a number of the Members of the Legislature realized that all of us are responsible for foster youth and the State owes these youth what most parents would want for their own children. The universities and community colleges were partners in this effort and were eager to have the opportunities to make greater gains with this group of young adults (see Attachment VI, AB 2463).

Finally, our fourth effort was a bill sponsored by the California Youth Connection, an organization of and for current and former foster youth, and was authored by State Senator Diane Watson. This bill, as introduced, would have created programs to empower foster youth, specify legislative intent that youth leaving foster care have specific minimal daily living needs met, enact a foster youth bill of rights and responsibilities and encourage state and local governments to recruit and hire current and former foster youth.

Ultimately, this measure was vetoed by the Governor because he felt it duplicated existing regulatory requirements. Each of the other bills was signed into law by Governor Pete Wilson and will take effect on January 1, 1997.

We succeeded this year in strengthening California law to emphasize child safety, emphasize legal permanency and improve life opportunities for those children who do grow up in foster care. These measures are models of sound child safety public policy.

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## V. IMPACT OF PUBLIC LAW 104-193

On many occasions during the past year, I have expressed my concerns about the impact of the sweeping changes the newly enacted welfare reform legislation will have on our child protection programs. I have two items that I believe could be easily remedied as Congress reconvenes for its new session in 1997.

First, PL 104-193, the Personal Responsibility and Work Reconciliation Act of 1996, prohibits those convicted of felony drug-related offenses from receiving Temporary Assistance for Needy Families. I would submit to you that we do have a proportion of parents who may fall into this category, but who have paid their price to society and who have successfully rehabilitated themselves through participation in drug treatment and have become totally drug free. These parents should have a chance to redeem their lives. They should be exempted from this federal prohibition, which can only serve to raise the odds against them and place their children at greater risk of growing up in the child protection system.

Second, in Los Angeles County, slightly more than half of the children in our foster care caseload are placed with relatives, while statewide slightly less than half are placed with relatives. In California and Los Angeles County, we are well-positioned to implement the new federal requirement contained in PL 104-193 which specifies that homes of relatives must be the first child placement consideration when safe. Our reality, however, is that not all the relatives with whom children might be placed are people of great means. Many of these relatives, considering that care of abused and neglected children also means costly child care and remedial medical and psychological care, find themselves in need of financial assistance. These relatives should not be subject to the work requirements and time-limit provisions of the new welfare reform program if we ask them to become caregivers for their grandchildren and nieces and nephews, and if Congress expects states to meet this requirement. Congress must reconsider these requirements and search for a better reconciliation of these provisions.

## VI. OUR CONTEXT: CHILD ABUSE AND NEGLECT CONTINUES TO INCREASE DRASTICALLY

The United States Department of Health and Human Services recently released the *Third National Incidence Study of Child Abuse and Neglect*, the single most comprehensive source of information about the current incidence of child abuse and neglect in the United States. While I will not review for you the entire study and its findings, I want to share with you the most critical points that I believe underscore the need for decisive action by Congress to make

child safety our nation's highest priority, data which is not totally dissimilar from that I have tracked in my own County.

Using data that includes both first-time as well as subsequent incidents of abuse and neglect, the Study's findings are alarming:

- Based on 1993 data, the Study reflects a dramatic 149 percent increase since the 1980 Study in children suffering from subsequent incidents of abuse or neglect.

- Between 1986 and 1993, there was a 98 percent increase in the total estimated number of abused and neglected children.

  - Abuse and neglect increased across all categories, including physical, sexual and emotional abuse, as well as physical and emotional neglect;
  - The number of children seriously injured by abuse or neglect increased by 298 percent.

The Study found that family income was significantly related to the rates of incidence in nearly every category of maltreatment, a finding that was consistent with the findings in the 1986 Study. Children in families with annual incomes below $15,000 per year were found to be more than 22 times and 25 times more likely to experience some form of maltreatment under the two study standards than children in families with annual incomes of $30,000 per year or more. *Child neglect* means lack of the necessities of life, including food, clothing and shelter; while *child abuse* is often a reaction to frustration and stress.

And finally, the Study shows that our child protection systems appear to have reached their maximum capacity to respond to these maltreated children. Despite the rising numbers of children found to be abused or neglected, the actual numbers of children whose abuse and neglect was investigated by Child Protective Services (CPS) remained stable, meaning that a larger percentage of children has not had access to CPS. (See Attachment VII, *Child Abuse and Neglect National Incidence Study.*)

**VII. CONCLUSION**

The Adoption Assistance and Child Welfare Act of 1980, supplemented by OBRA 93, laid a substantial foundation for child protection. However, the experience of the past sixteen years has shown numerous ways in which the law must be improved in order to increase child safety, emphasize legal permanency through adoption and create basic opportunities for foster youth who emancipate without legally permanent families.

[Additional material is retained in the files of the committee.]

[Whereupon, at 12:09 p.m., the committee was adjourned.]

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